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JUDICIARY

April 28, 2008
10:00 a.m.

PRESIDING CHAIRMEN: Senator McDonald
 Representative Lawlor

COMMITTEE MEMBERS PRESENT:

SENATORS: Handley, Kissel

REPRESENTATIVES: Fox, O'Neill, Adinolfi, Aman,
 Berger, Bye, Caligiuri,
 Coleman, Dillon, Fritz,
 Geragosian, Giegler,
 Godfrey, Gomes, Gonzalez,
 Green, Hamzy, Hewett,
 Hovey, Hurlburt, Klarides,
 Labriola, McMahon, Meyer,
 Morris, O'Brien, Rowe,
 Serra, Spallone, Taborsak,
 Tong, Walker, Wright

SENATOR MCDONALD: --interested members of the
 public ran into the same challenges we all were
 faced with, traffic jams and accidents on the
 highway, so we are just going to stand at ease
 for one moment, I appreciate your patience.

I apologize to members of the public that we
don't have more of the Members of the Judiciary
Committee yet with us, but we can expect them
to be rolling in shortly I hope.

Before I begin, I just wanted to welcome
everybody here, particularly the nominees and

members of their families. Hopefully, the process will go smoothly today, and we certainly appreciate your patience.

I also just want to take a point of personal privilege, as we say here in the Legislature, to welcome Sal DePiano to the General Assembly again.

Former Senator DePiano used to be the Chairman of the Judiciary Committee for four years here, and it is a pleasure to have you back amongst us, Sal.

Our first nominee is to be a Workers' Compensation Commissioner, and the nominee is Daniel E. Dilzer of Kensington. Good morning, Sir. Please raise your right hand. Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

DANIEL DILZER: I do.

SEN. MCDONALD: Please have a seat.

DANIEL DILZER: Thank you.

SEN. MCDONALD: Again, congratulations on your nomination. We typically open these hearings with an opportunity for the nominee to provide any opening statement that they care to give the Committee.

DANIEL DILZER: Thank you. Good morning, Chairman McDonald, Chairman Lawlor, and Members of the Judiciary Committee.

It's a great honor and privilege to sit before you today as a nominee to the Workers' Compensation Commission. I am especially grateful to Governor Rell for nominating me for having confidence in my ability to serve the citizens of this great state.

I was born and raised in New Britain Connecticut, graduating from St. Thomas Aquinas high school in 1984. From there I went to Central Connecticut State University and graduated with a Bachelor of Arts in history in 1989.

I then went to the University of Bridgeport's School of Law, which is now known as Quinnipiac University. I graduated in 1992 with honors with a Jurist Doctorate degree. Also, I was an associate editor of the Law Review.

I currently reside in the Town of Berlin for the past ten years with my lovely wife, who is with me here today, and my two children, Jeremy who is 13, and Maya who is age 10.

Over the years, I have coached basketball, soccer, little school [inaudible], all of the things that parents do with their children.

I had been admitted to the Connecticut Bar in 1992, and to the Federal Bar 1994. I have been in private practice in New Britain since 1993.

In 1994 and 1995 I served as an executive aid to Mayor Linda Blogoslawski in New Britain while I was also practicing law in New Britain.

I am with my partner, Raoul Davila, since 1999. I typically handle real estate, landlord-tenant, personal injury, family, civil, and promote defense type of matters.

Over the past few years, I've handled several significant criminal matters and have probably tried all types of matters to conclusions with a court jury, including criminal cases with a defendant charged with crimes from misdemeanors to murders.

Over the past 16 years, I've had the honor to serve New Britain and Berlin on the various boards and commissions including charter revision, board of ethics, Housing Authority, and various regional boards. I have also accepted pro bono referrals from Connecticut Legal Services over the years and have been recognized for that.

Since 2000, I have had the honor of serving as a Victims' Compensation Commissioner on matters involving claimants who are denied benefits by the Office of Victim Services. Over the years I've heard approximately 150 to 200 of those claims.

Almost all the claimants who appeared before me at the Victims' Compensation Commission represent themselves. I have conducted every hearing with an open mind and strive to treat

every claimant with compassion, respect, and the utmost fairness.

Given that they usually appear pro se, I also make sure special care to ensure that their claims are fully made and articulated.

I hope to bring skills in the use of the Victims' Compensation Commission to the Workers' Compensation Commission. And I will continue to focus on the law and the facts before me and render decisions that are fair and impartial.

Given the opportunity by this Committee rest assured that I will try to reach a fair result within the confines of the law and to continue to treat those who come before me with compassion and respect.

Thank you for your time and I stand ready to answer any questions that you may have.

SEN. MCDONALD: Thank you very much for your testimony, it appears in your questionnaire and your testimony that you don't have a relevant history working on workers' compensation cases, is that correct?

DANIEL DILZER: Very limited work with workers' compensation experience, I have a very broad-based practice and I have been a Victims' Compensation Commissioner for years.

SEN. MCDONALD: But with respect to it, why don't you tell me a little bit more about your actual experience doing workers' compensation.

DANIEL DILZER: Two cases over the years, I represented an employer, and years ago I represented a claimant. And that is the extent of my workers' compensation experience.

SEN. MCDONALD: Why do you want this job?

DANIEL DILZER: I think it would be a great opportunity to help people, I really enjoyed working with the Office of Victims' Services where it is not too dissimilar in that the people who are seeking compensation for claims usually represent themselves pro se.

It is a wonderful opportunity to help people, I enjoy meeting with people and hearing their issues, and if I can help them, it's something I like to do.

SEN. MCDONALD: When did you first apply for the position of Workers' Compensation Commissioner?

DANIEL DILZER: I think about a year ago I expressed an interest.

SEN. MCDONALD: How did you express that?

DANIEL DILZER: I sent a letter to the Governor's office expressing an interest.

SEN. MCDONALD: I was just conferring with Representative Walker, just walk me through the

process that you followed with a path that led you here today, if you will.

DANIEL DILZER: Well, I was interested in becoming a Workers' Compensation Commissioner, I have spoken to a few people who suggested that I express that interest to the Governor's office which I did.

And about a year later, it was last spring, the Governor's office called me and said they were interested in appointing me. And I met with the Governor and the Governor's Council, and had a conversation about my experience and my practice, and what they thought I could bring to the Workers' Compensation Commission.

SEN. MCDONALD: And could you share a little bit more with us about the nature of the rest of your practice?

DANIEL DILZER: Yes. We have, I have a very broad practice, I mostly represent working-class people, middle-class people in all types of matters, criminal defense, landlord-tenant.

I do wills. I've done many civil cases. I've done pre-judgment remedies. I've tried neglect cases. I've tried delinquency cases. I've tried family cases. This is a typical blue-collar town and most of the people that I represent are representative of the community.

There is a large minority population in the town that we represent as well. My partner is Hispanic and we are into that market as well.

SEN. MCDONALD: Are there other questions from members of the Committee? Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. And good afternoon, good morning.

DANIEL DILZER: Good morning, whichever.

REP. LAWLOR: I am actually very interested in this whole area of the law which is very rarely discussed around here, which is the Victims' Compensation Commissioners. Now, that is a per diem appointment, is that correct, is that how that works?

DANIEL DILZER: We are appointed for a term. Years ago I was appointed, and I think I was just recently appointed, I think it is a four-year term. But it is basically that you hear claims on a per diem basis.

I typically volunteer to go to the Bridgeport office because the Bridgeport Courthouse to hear your cases because everybody, unfortunately, was from this area. And nobody wanted to travel down there.

Sure that most are aware but by statute people who are victims of a crime who have no insurance and no collateral sources have opportunity to seek money from that fund to pay for out-of-pocket medical expenses, to pay for lost wages, fuel expenses, sadly, happens quite frequently.

When they make application to the Office of Victim Services, and the application is denied, and myself were one of the other commissioners, actually, contains a hearing where a person appears typically by themselves. I think over the years I can count on my hand the number of lawyers who actually appeared on behalf of a claimant.

And they appear by themselves and they try to articulate why they think the claim was unfairly denied.

REP. LAWLOR: And is there someone there representing the Victims' Compensation Commission or something like that?

DANIEL DILZER: Well, they have a Clerk there, they have a Clerk from the office who doesn't actually advocate on behalf of them. But usually they are the ones who prepare the file that is available for myself or the other Compensation Commissioners to review.

Unfortunately, it is kind of, because they have the opportunity to prepare the file, it seems to be, obviously, one-sided.

REP. LAWLOR: It is not really an adversarial proceeding?

DANIEL DILZER: No, it is not.

REP. LAWLOR: Usually, what is the issue when it ends up in front of you? Is it a technical issue of the law or is it--

DANIEL DILZER: Typically it is a factual issue, occasionally, a technical issue. I think, predominantly, it is whether or not a person's conduct contributes to the crime for which they are the victim.

Asking for a waiver of the two-year statute requirement that is a little more technical. And sometimes, importantly, I think a lot of people who are eligible and simply get a denial letter need to come in and, actually, say what is on their mind, make the claim, and have someone explain to them what the situation is and what the law is.

REP. LAWLOR: How many years have you been doing this?

DANIEL DILZER: About eight.

REP. LAWLOR: And is it in general when they get to your stage, actual hearing, as it turned out that most of them that you sustain a denial or does it all the times turn out that a mistake was made and that you end up overturning the denial in general?

DANIEL DILZER: In general I think more often than not a mistake has been made.

REP. LAWLOR: And could you just briefly describe the parameters within which you are working, in

other words, what are the limits on compensation, is there a dollar amount?

DANIEL DILZER: There is.

REP. LAWLOR: How does that work?

DANIEL DILZER: Well, it is for out-of-pocket medical expenses are paid up to, I believe is \$15,000, and funeral expenses, and lost wages. The claims themselves I hear, for example, I think I might have included some with my package, but, for example, a woman lost her daughter in a car accident. And typically a car accident is not one of the reasons, is excluded from the statute, however, in that particular instance I believe the person was charged with manslaughter.

Well, the woman did not make a claim for compensation for more than two years. And the Office of Victim Services outright denied the claim, and quite honestly in speaking to her there was psychological impairment and other issues involved. I tried to elicit them, in that instance, to help her make claim, that is the type of thing I try to do.

REP. LAWLOR: I think we made, I forget how many years ago it was, may be one to three years ago, I think we made a change in the law to sort of eliminate some of the time deadlines in light of the fact, for example, in the Michael Ross case the victims were re-traumatized and went through the actual execution, and so they want to get services there.

It did change several years ago instead of what it was, instead of a bright line rule of two years, if the person was emotionally distraught or had a psychological or psychiatric problem that precluded them from actually making a claim within the two years, it extended the time frame.

And there is a another interesting issue, I am just wondering if you are involved in it or aware of it even, because this is comes up in your times here. Apparently, all of the money that is paid out to the crime victims is paid out from the Crime Victim Compensation Fund, right?

DANIEL DILZER: Yes.

REP. LAWLOR: And the vast majority of money in that as I understand it comes from fees from defendants in criminal cases so they pay a fee, most of that money goes into the Crime Victim Compensation Fund. Is that your understanding?

DANIEL DILZER: That's my understanding on it.

REP. LAWLOR: And are you aware that, apparently, there is an effort on the part of the judicial branch to limit payments because they are afraid there is not enough money in the fund available to make these payments. Did they make you aware of this?

DANIEL DILZER: No. I am not involved in that aspect of it at all.

REP. LAWLOR: Because the reason I bring it up because it is interesting because actually there is a huge surplus in the fund but, apparently, the Office of Policy and Management has taken the position that the budgeted amount is the limit that can be spent in any given year.

But even though all the money comes from people being convicted in criminal cases, they are treating it as if it is a taxpayer-funded thing, and they will not permit expenditures above the budgeted amount per year, which is, at the end of the day, crime victims are being denied compensation because even though there is a huge surplus because of the spending cap issues involved. So is that something that they make you aware of it all?

DANIEL DILZER: That is not an aspect I would be involved in at all.

REP. LAWLOR: So no one has ever said to you that we have the problem with the amount of money?

DANIEL DILZER: My concern when I decide those matters has nothing to do with what the finances are of the judicial branch. I decided on the facts before me.

REP. LAWLOR: And so the amount, do you have any, to have discretion in the amount that you can award, in other words, is it simply a factual finding you are making in terms of whether or

not it is an expenditure that was made and was not insured.

DANIEL DILZER: That is correct, that is a factual finding.

REP. LAWLOR: So you don't get a chance--

DANIEL DILZER: No discretion for pain or suffering or anything like that.

REP. LAWLOR: Not so much pain or suffering but the only thing you can provide a reimbursement for is documented expenses.

DANIEL DILZER: Correct.

REP. LAWLOR: So there is never--

DANIEL DILZER: And lost wages.

REP. LAWLOR: And lost wages, so it is either that they are entitled to them or they are not, not that the amount is in question.

DANIEL DILZER: Well, occasionally, it could be in question when it involves a police officer or state employee who was entitled to overtime. Then we run into those issues.

REP. LAWLOR: I got it. Okay. Well, I think even know you have acknowledged that you don't have a lot of experience dealing with workers' comp specific issues, I think that the work that you do actually as Crime Victim Compensation Commissioner sounds very similar.

It is a different body of law, but you were working directly with the claimant and you are not in the role of an adversarial process trying to work through to make sure people get what they are entitled to.

I think if you can't have experience dealing with workers comp claims, I think this is the next best thing in many ways, so I'm glad to hear that.

DANIEL DILZER: Thank you.

SEN. MCDONALD: Other questions? Representative O'Brien

REP. O'BRIEN: Thank you. I don't know if this is more commentary but I just wanted to say that though we have not really known each other that well, as a New Britainer I can say with all honesty that your reputation precedes you.

You have a reputation as a decent person who works hard in the community, an even handed straight shooter, and you are very well respected.

I also know something that I would ask as a question. Have you felt as your career has progressed that it is important for you to be basing your work in the community? It seems that that is most of what your history has been all about.

DANIEL DILZER: Thank you for the comments. I think one naturally follows the other. If you are interested in helping out the community, I have been on many boards and commissions.

I don't think one should get involved in that to advance their business. But I think when you are involved in the community and you care, I think it shows, and people are interested, and they meet you, and I think it does help you.

REP. O'BRIEN: Thank you very much.

DANIEL DILZER: Thank you.

SEN. MCDONALD: Other questions? If not, thank you very much for your time.

DANIEL DILZER: Thank you.

SEN. MCDONALD: The next nominee is David Schoolcraft of Hebron to be a Workers' Compensation Commissioner. Morning, Sir. Please raise your right hand. Do you swear the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

DAVID SCHOOLCRAFT: I do.

SEN. MCDONALD: Please have a seat, we are happy to have you here and happy to receive any opening comments that you might have.

DAVID SCHOOLCRAFT: Good morning, Chairman McDonald, Chairman Lawlor, Senator Kissel, Representative O'Neill, Members of the Committee.

I would like to begin by saying how honored I am to be appearing before this Committee today, and how grateful I am to Governor Rell for the confidence she has expressed in me by nominating me for your consideration.

As someone who has worked in the workers' compensation field for most of his adult life, it is hard to express just how excited I am about the possibility of taking on this new role, and the chance to have a direct, positive impact on the system that has been so much a part of my life.

By way of background, I live in Hebron, with my wife, Deborah, who was with me today, and my daughter, Kate. My wife is a former workers' comp lawyer who has turned middle school teacher. And my daughter is in middle school student who thinks she is a lawyer.

I grew up in Groton. My mother, Eleanor, is from that area but my father, Don Schoolcraft, is from the hills of West Virginia. It is my guess that it was a navy that brought them together.

My father retired from the submarine service when I was very young and opened up a small automotive business. So from the time I was about 13 years old forward, my copious spare time was well accounted for, pushing broom,

selling gasoline, \$.38 a gallon for high test. And the auto repairs, and doing just about everything else that is required in family business.

My parents were active in public service as far back as I can remember. I can proudly say that my father went on to serve in this General Assembly as a Senator.

For my part, I have served eight years on Hebron's Planning and Zoning Commission most of that time as Chairman. And I am currently the Chairman of the Board of Selectmen in my town.

As an aside I should note that I will need to be resigning that position, I will submit a letter of resignation if I am confirmed.

I graduated from the University of Connecticut in 1980 and I worked as a newspaper reporter for a while, I was a reporter for the Norwich Bulletin. And then I figured out that I did actually want to be a lawyer, I went to law school, I got my Jurist Doctorate from Western New England College in 1985.

My first legal job back in 1985 was with a small plaintiffs firm in Willimantic. I was hired to handle personal injury cases but when I showed up for my first day at work my boss told me I was going to be a workers' compensation lawyer.

I'm not sure I even knew what that was at the time but as it turns out he was right.

Workers' compensation turned out to be the core of my professional life for the next two decades.

Workers' compensation lawyers handle a large volume of cases. It would not be an exaggeration to say that the informal hearings I have attended and depositions I have taken over the years number in the thousands.

As for formal hearings, when I last counted had been somewhere between 110 and 125 formals that went to a decision. And in addition, along with that comes a great deal of appeal work mostly before the Compensation Review Board the Appellate Court. I have also been involved and handled some federal long shore cases.

In terms of extracurricular activities, if you will, I have written articles on workers' compensation, I've spoken at a workers' compensation seminars, and I served on the executive board of the Workers' Compensation Section of the Bar Association.

I was also the Bar Association's legislative liaison for workers' compensation matters. And finally, I have served on and still serving on Chairman Mastropietro's Legal Advisory Panel.

A cheap visual aid. This is the Workers' Compensation Bulletin from 1985. When I started practicing, this was in your pocket at all times. As you know, it is printed every two years, has all of the relevant statutes, to some degree annotations.

This is the book now. It comes with annotations that greatly outstripped the statute itself. In fairness I should point out that the print is larger which I have come to appreciate as I have gotten older.

But the fact of the matter is that it is still a fairly detailed statutory scheme that has evolved over the past century. And between the statutes themselves and the case law, ever evolving medicine, there can be a fairly significant learning curve, if you will, for somebody who either wants to take up the practice of workers' compensation, and certainly, somebody who wants to be a Commissioner.

I would like to think that my experience over the period time working with the medical issues and with the law would allow me to jump in and start being of service to our overstressed system right away without much delay.

I should also note however that my legal background is not limited to workers' compensation. In fairness, the last five years, for example, has been primarily personal injury trials, civil jury work. I think that experience is also relevant here, and I think would be helpful to me if you choose to approve me as a Commissioner.

Several reasons for that. The first is purely practical, by not being, in the past five years thing every day and the workers' compensation

offices, I have put some distance between myself and the lawyers who would be practicing before me.

I think, to a certain degree, I would be making a fresh start that way. Second, doing jury trials, I've learned a useful skill, I have learned how to speak English.

Workers' compensation is a statutory and technical system, and because of the volume of the work and the pace of the practice it is often, you sit in these hearings and it seems like everyone is speaking of some sort of staccato code. Claimants, even employers, sit there and hear themselves spoken about rather than being spoken to.

And it is all done in a lexicon that is almost guaranteed to keep them on the sidelines and out of the conversation. I think working with a jury has allowed me to learn how to communicate legal matters in a clear fashion without speaking down to people.

Third, having worked in civil litigation, I am better able to understand what the workers' compensation system is meant to be and do.

First of all, it has to be swifter than the courts. An injured worker without an income does not have the luxury of time. Second, the workers' compensation system has to be less formal, more accessible, and more understandable to the average person.

And third, the workers' compensation must at all times be focused on managing injuries and disability, getting people better and getting them back to work.

Personal injury litigation, and I'm not trying to insult it, made a living at it, but personal injury litigation, the settlement or the verdict that is the goal line, and the case is over at the end.

In compensation settlement is still the exception not the rule. Our system has to stay focused, first and foremost, on treating and financially sustaining the injured workers, and then getting him or her back to gainful employment.

I'm as committed to that now as I ever was in 1985, and I look forward to stepping out of the role of an advocate, and I think I can have a more direct and positive impact on the system and the people it serves.

So in closing, I would like to thank you for your time and consideration. I know I went little long. Thank you for our consideration. I would be happy to answer the questions that you would have

SEN. MCDONALD: Thank you very much, and we appreciate the materials that you have provided to the Committee, you certainly have a wealth of experience in the worker's comp area.

I have never had the pleasure of meeting you but I have heard some very good things about you, about your disposition, and about your abilities that you would bring to the position.

So I want to thank you for your attention and your dedication that you have brought to the practice of law into the workers' compensation area.

DAVID SCHOOLCRAFT: Thank you very much, Senator.

SEN. MCDONALD: Are there any questions from members of the Committee? Representative O'Neill.

REP. O'NEILL: Thank you. I noticed on the questionnaire that question 14 asked if you belong to any bar associations. And none at this time was the answer.

And on question number 15 it says, Bar Committee served on, offices held, if any, CBA workers' compensation Section, legislative liaison for workers' compensation Section for CBA. Are those things that you did so at some point in the past?

DAVID SCHOOLCRAFT: To be perfectly honest in my current practice, I let the Bar Association lapse, part of that is a question of reimbursement, it is really a pretty mundane reason. In the past I was a member of the Connecticut Bar Association for many years.

REP. O'NEILL: But you are not actively involved with those committees now because you are not member now?

DAVID SCHOOLCRAFT: Correct.

SEN. MCDONALD: I think that is it, thank you. Anything further? Representative Aman.

REP. AMAN: Yes, I found your comment about settlements and things interesting. There has been a multitude of bills proposed this year that would allow commissioners in a variety of different ways to go from a very strict formula of how benefits would be awarded to more discretion on the part of the Commissioner, discretionary benefits.

From your experience do you think this would lead to more settlements, more basically litigation when the Commissioner would be given the opportunity to exercise their own judgment as far as discretionary benefits go?

DAVID SCHOOLCRAFT: Well, first before I go too far with that, there is no common law in workers' compensation. It is a creature of statute. And I have always worked with whatever it is a Legislature gives us. Obviously, we will do that. It is not for the commissioners to make those policy decisions.

Logically speaking if you, the thing about workers comp is because it is scheduled, because it is so laid out by statute, one of the primary goals is predictability.

Just speaking off the top of my head, but I suppose the more discretion you work into it, the less predictable it becomes. Almost by definition I think it would probably lead to some uncertainty, and uncertainty generally leads to settlements.

REP. AMAN: Thank you.

SEN. MCDONALD: Anything further? If not, thank you very much for your time.

DAVID SCHOOLCRAFT: Thank you very much.

SEN. MCDONALD: The next nominee to be a Judge of the Superior Court, Barbara Brazzel-Massaró of Trumbull. Good morning.

BARBARA BRAZZEL-MASSARO: Good morning.

SEN. MCDONALD: Please raise your right hand. Do you swear that the testimony you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

BARBARA BRAZZEL-MASSARO: I do.

SEN. MCDONALD: Please have a seat. It is nice to have you here, I should tell you that Mayor Finch wants your nomination rejected because he said he knew you in the Bridgeport law office. But all joking aside, I welcome you. I would be happy to have any opening comments from you.

BARBARA BRAZZEL-MASSARO: I thank you very much.
Good morning, my name is Barbara Brazzel-Massaro. Good morning Chairman McDonald in Chairman Lawlor, and Members of the Judiciary Committee.

It is my pleasure to have this opportunity to appear before you today and answer any questions you may have about my nomination for a Superior Court Judge. I would also like to take a moment to thank Governor Rell for bestowing this distinct honor and privilege and nominating me for this position.

Here with me today is my husband, Carl, my daughter, Caci, who is just about to embark upon a college career, and some of my colleagues and friends.

My way of personal background, I was born in Washington, DC, the third of four children with two older brothers and one younger sister. My father devoted himself to law enforcement and he passed away just two years ago.

My mother who is 82 years young has just recently retired. She has been my greatest supporter. She insisted that her girls have the opportunity to attend college and be given the chance to develop a career.

Without her, I would not be honored with this nomination. Although she gave up her opportunity to accept a college scholarship, she worked to give each of her children educational opportunities and thus I learned

the value of hard work. By her example, I have learned humility, honesty, compassion, and sacrifice.

She has taught me that you always treat others the way you would want to be treated. All I hope is that I am my mother's daughter. I am forever indebted to her.

I attended Montclair State College. While there, I developed a strong work ethic and time management skills by balancing a full-course load with work-study, college clubs, and a daily commitment to train and compete on a gymnastics team. These skills have remained with me.

I graduated with a teaching degree. I taught in college for three years. During this time, I realized when working with a friend who practiced law that I thoroughly enjoyed not just the intellectual aspect of the law but working with people to effect positive results.

I attended Western New England School of Law and while there worked as a full-time law librarian and as a way to support myself and pay tuition.

After graduation, I was fortunate to earn a highly regarded clerkship in the county courts in New Jersey. This one-year clerkship with my opportunity to learn the operation of the court system, write numerous decisions for the Judges, and become comfortable with the courtroom.

During the course of my New Jersey clerkship, it became obvious that I was destined to marry my now husband of 25 years, Carl, and move here to Connecticut to redirect my career path.

I worked in the Milford JD as a temporary assistant Clerk. In this position I now have the opportunity to learn the intricacies of the Connecticut court system.

My judicial clerkships gave me a wealth of knowledge of the courtroom that made an easy transition in 1983 to a position as a litigator at the City for Bridgeport.

I have been representing the taxpayers of Bridgeport for over 24 years. I thank the City for the wonderful opportunities I have been given to provide legal representation to the employees, officials, and taxpayers.

I believe that no other job absent a judicial appointment could give me the breadth of experience and unparalleled opportunity to practice law in so many varied areas, including the operations of a city owned airport, park and zoo, or addressing antitrust law, civil rights actions, statutory interpretation, inverse condemnation, negligence actions, and management of appeals for a number of land-use boards.

I aided in the rewrite of zoning regulations and master plans, and negotiated agreements for the Barnum Museum, city ambulance services, the

Beardsley Zoo, Bridgeport parks, and the Harbor Yard Arena. I did this, in addition to a full-case assignment.

During the last eight years, I have tried approximate 25 cases with almost all being jury cases. However, trials are a last resort, so I have prepared approximately 50 civil actions to obtain dismissals or summary judgments favorable to the City and employees affording the time and expense of a trial.

Additionally, any trial attorney is aware that in some instances settlements are best for all parties, and I have successfully entered into settled agreements in a number of cases.

I have written briefs and argued at least eight cases to the Supreme Court of Connecticut, and a number of cases at the Appellate level. I have also written briefs and argued approximate seven cases in the Federal Court before the Second Circuit Court of Appeals.

In 1989, I had the honor of being appointed City Attorney, accepted the supervision of the full and part-time Council and support staff, coordinated all legal opinions and legal representation for the city boards, commissions, and officials, as well as continued all administrative duties of the office until 1992.

While City Attorney, God gave to my husband and myself the most beautiful gift to the world, our daughter Caci. As I tell her, God gave us

only one child because she is everything good in one little body.

But working in the Office of the City Attorney has allowed me to remain an active part in my daughter's life to attend interests such as dance, theater productions, music recitals, and sports events.

As a mother, you become well grounded and have learned the importance of patience and family priorities to add the human factor to the practice of law in the approach on the bench.

Beginning in 1985 and until today, I have served as an attorney trial referee fact finder, this work permits me to analyze and utilize decision-making skills beyond the legal issues addressed in the Office of the City Attorney.

I have served our legal community by participating as a member on the Federal Civil Justice Reform Act Committee, by serving as Chairperson for the Land Use Committee and a member of the Board of Directors for the Bridgeport Bar Association.

I have been a guest lecturer for the Practicing Law Institute in New York, as well as the Connecticut Association of Municipal Attorneys. I am state certified for police instruction and teach on a regular basis. I served in my own town on the Police Commission, and I'm a member of the State Police Commissioners Association.

On a personal level, I volunteer for Swim Across the Sound to raise money to aid women and men who are affected by breast cancer, as well as other forms of cancer, and since 2004 I have been co-chair to the Sacred Heart University Theater Renovation Committee to update and redesign the theater utilized by the community.

I assisted in forming a new nonprofit organization to open a food pantry within the City of Bridgeport. I have been humbled by taking part in the Read Aloud Program with a first grade class in Bridgeport.

This nomination is the ultimate compliment for a person who has devoted her entire life to public service. If confirmed, I will welcome this change in public service and hope to bring my life experiences, my trial skills, and my love of law to the bench.

Thank you for your time and consideration, and I will answer any questions that you have.

SEN. MCDONALD: And thank you for your testimony. My joke aside at the beginning, Mayor Finch I suspect personally talked to many Members of this Committee to share with us the important work that you do and the quality of the work you have done on behalf of the City of Bridgeport.

But perhaps more interestingly I have also been contacted by a number of people that you have beaten in court, and they have nothing but the

highest praise for you as well. In many ways I think that is even a higher honor to have vanquished somebody and still have their respect, and you certainly have that

BARBARA BRAZZEL-MASSARO: Thank you.

SEN. MCDONALD: I want to thank you for continuing on in your public service, and if there are questions? Representative Walker.

REP. WALKER: Good morning.

BARBARA BRAZZEL-MASSARO: Good morning.

REP. WALKER: And congratulations for your nomination.

BARBARA BRAZZEL-MASSARO: Thank you.

REP. WALKER: I'm going to talk about a few things that I have read about your bio and some things that he said. First of all, you talk about the fact that you felt that trials are the last resort.

Knowing that we have now passed a persistent-offender bill, and understanding what the directions are, as an offender who was up for a second or third strike, the only options they have are really going to be your trial. Can you give me your opinion on that or your feelings on that?

BARBARA BRAZZEL-MASSARO: Well, I do not do a lot of criminal work. And I am aware of the

persistent felony offender statute. And I do know that aren't, that I guess the consensus is a lot of people will be going to trial on the criminal aspect of that.

I think the trials, and are mainly due to civil actions, and that is really where my comments come from. I think the criminal aspect is much different, I do know that there is a plea-bargaining aspect in the criminal court, however, many people will elect to go to trial. And they have that opportunity and they certainly have that right.

And I think that is the right you are going to have to give each individual to choose to go to trial, and if they so choose, and that is what the judges are there for.

REP. WALKER: The other part of that law set mandatory minimums. Which as you know, really puts the judge, sort of takes their discretion out of this, because they're required, even though they have heard the case, to institute even a certain amount of time that the person has to serve.

Many people felt the judge issued the new ones to make that discretion, and part of the criticism has been that the judges are instituted enough time to be served for some of the cases. Can you give me your opinion on that?

BARBARA BRAZZEL-MASSARO: I think that, first of all, I know the mandatory minimum, and I think

it is in the process of changing. And I also think that there is some discretion in that particular law. There is a minimum with certain laws, and I think the judge should have to follow whatever the Legislature decides is the mandatory minimum. We have no choices are. And I think that is all that a judge can do.

The judge's discretion does come into effect after the mandatory minimum if I understand it correctly, into determining whether or not an individual should receive a sentence, and some of them would range from say two to forty or three to forty years as I understand depending upon the offense. And that is when the judge will have some discretion to determine where the judge is going to go.

REP. WALKER: I think that many of us felt and looking at these changes in law and we spend an inordinate amount time selecting people that we feel have a balanced and have the ability to make those determinations on what should be the time served. Because we like to get them as an individual cases as opposed to a factory production. But I think one of the most important things as a judge is to be able to make your comments, input your feelings because you are looking at the whole case in totality.

In your past history you said that you did mostly civil cases. Now going into Superior Court you'll be doing a lot more criminal cases also. What is your feeling on that or how are you going to address those differently than you did with the civil cases?

BARBARA BRAZZEL-MASSARO: In some ways I am looking forward to doing some criminal work, I've done some motion practice in the criminal courts, I think it is a very difficult aspect of practice.

I think it is difficult for judges to have to sit in criminal courts because as you say you are confronted with a very different situation in civil.

I think if you're talking about somebody's liberties, it is a different issue. And it is something that a judge has to be very aware of when you have someone come before you.

But I would welcome the opportunity to be able to sit on the criminal aspect and too, hopefully, be a fair judge as I think I have been fair in all of the civil cases that I have handled.

I think I have a lot of background dealing with teaching and having patience. I like to listen to people and I think that is something that would bode well sitting on the criminal side.

REP. WALKER: Thank you.

SEN. MCDONALD: Anything further? Representative Green.

REP. GREEN: Thank you, Mr. Chair. Good morning, how are you?

BARBARA BRAZZEL-MASSARO: Good morning. Fine, thank you.

REP. GREEN: Good. I was reading over some of the information that you have supplied. And I was, particularly, interested in one of your questions, in one of your answers, I was just wondering if you might tell me a little about the article that you wrote defending law enforcement officers and the employer.

You mentioned that was something you wrote when you were a guest speaker somewhere. And I was wondering what were your conclusions in that paper?

BARBARA BRAZZEL-MASSARO: That was the Practicing Law Institute in New York. And that dealt with police misconduct cases, and I actually was asked to go speak at that seminar by John Williams who does quite a bit of civil rights law in New Haven and throughout Connecticut. And John and I have been advocates quite a lot and have been on opposite sides quite often but have a great respect.

And what we talked about in that particular seminar was the issue regarding qualified immunity for officers because at that time it was before a case decided by our Supreme Court called Saucier.

And there was a question as to whether or not qualified immunity applied to police officers if they were being, I guess, accused of in the

use of excessive force under a liability statute.

And so John and I were kind of on opposite sides of the fence there, and he was giving the aspect of a qualified immunity does not apply and would never apply on an excessive force case. And my position was but I believe that qualified immunity at some point, it would apply to police officers.

In fact, I don't like to say that John was proven wrong, but some time later the Supreme Court decided that qualified immunity would apply to officers. And that is what that was about.

REP. GREEN: One of the things that is going to be happening in the few years is this whole idea of race and age, 16 and 17 year olds will be tried as juveniles. And currently we do have a statute where certain individuals under 18 if they are charged with a particular type of crime, can be tried as an adult.

I understand the process usually works where they get charged in adult court first, and the prosecutor decides if it goes down. What is your opinion on serious juvenile offenses, and whether or not a person under 18 should be tried in adult court?

BARBARA BRAZZEL-MASSARO: I haven't had much experience with juvenile except, I first started practicing in New Jersey believe it or

not, the judge I worked for actually did do some juvenile.

And I think that that has to have some discretion with the judges as to whether or not they are going to go to the adult court as I understand it from the first aspect.

I also think there are ways that the judge has to look at what the factual circumstances are in the particular case to determine whether or not it should be heard in juvenile court versus the adult court.

And a lot of that is going to come based upon a review of the facts, circumstances of the particular crime that they are being accused of. It is going to be input not only from my understanding, I would think from the state's attorney, but also the individual who would be representing a particular young child.

REP. GREEN: One of the things I'm finding out is that what individuals are accused of and what they get convicted of could be so varied, but there is a host of information in charges during the arrest, but then there is this issue of plea bargaining.

And somehow what appears to be the charges that a person was arrested for, they get convicted or at least lead to something else. What is your opinion on the use of plea bargaining?

BARBARA BRAZZEL-MASSARO: I think because of the numbers in our criminal courts plea-bargaining

is an absolute necessity. I also think as I understand no one has to accept a plea bargain. And I know that in the Bridgeport courts in the deposition we did there was one of the state's attorneys there, they had 11,000 cases that were filed their last year.

To try 11,000 cases would be very difficult. In addition to that you are going to give some discretion to everyone to determine whether or not they're going to accept [Gap in testimony. Changing form Tape 1A to Tape 1B.]

--or they reduce some of the charges. In the case of the individual who is being accused of that has the absolute right to say I do not choose to plea bargain, I choose to have a trial. And they have the right to do that.

REP. GREEN: Do you think that individuals that get arrested, and from what I understand most individuals could get arrested, actually, get arrested and have more than one charge filed against them.

And you just talked about sometimes doing a plea-bargaining process, and some charges are dropped. Do you think that maybe the police are making unjustified arrests and/or charging individuals on situations where there is no factual evidence?

BARBARA BRAZZEL-MASSARO: That I cannot really comment on without looking at the specific case, but I would think if that was so, then there would be a finding of no probable cause

during the course of the criminal aspect of the case.

And if there is probable cause it should be contained in the police report, if not, the charge should be dismissed in a plea bargain.

REP. GREEN: If you were a judge, would you believe that you would be able to say very strongly whether or not a case has established probable cause evidence, and could you as a judge possibly say you don't feel that there has been any finding of that?

BARBARA BRAZZEL-MASSARO: If that was so based on the facts and circumstances, I certainly would do that, that is how I practice, I am straightforward. I think that anybody you talk to will tell you that.

I look at things, I tell you the way they are, it is a fine line for me. So therefore if that report does not contain the actual information necessary for a finding of probable cause, as a judge I think I would be obligated to do that.

REP. GREEN: As a candidate for appointment to Superior Court, have you looked at the criminal justice system in Connecticut and do you feel there is any sort of racial or class impact, racial or class disparity impact in the system?

BARBARA BRAZZEL-MASSARO: You know truthfully I have not looked at it closely, I have not been involved in the criminal courts to that extent to be able to tell you that. And I think that

would have to be somebody who has done a study and statistics regarding that. So that it would be very difficult for me to answer that question for you.

REP. GREEN: Thank you.

SEN. MCDONALD: Are there any other questions from Members of the Committee? Representative Rowe.

REP. ROWE: Thank you, Mr. Chairman. Not so much a question, but, and welcome Attorney Massaro, when the Chairman mentioned that former Senator, now Mayor Finch, had made some calls and was giving his wholehearted recommendation to you, I think it was qualified only insofar as the City of Bridgeport is going to miss you tremendously.

And your opening remarks were so thorough and you went on and on and on, you didn't go too long, because you have got just such an extraordinary resume.

And you're going to bring so much to the bench that I am sure that I probably speak for Senator Gomes too that who in his capacity representing Bridgeport, Bridgeport is going to have a hole, but the State of Connecticut is going to gain. So good luck, I wholeheartedly look forward to supporting your nomination and wish you nothing but the best.

BARBARA BRAZZEL-MASSARO: You know I love the City of Bridgeport, and I'm very happy to be here before this Committee and I just hope that I

can do the same job for the State of Connecticut that I have done for the City of Bridgeport.

REP. ROWE: We are sure you can and we will touch base again in eight years when you come back for reappointment. Thank you, Mr. Chairman.

SEN. MCDONALD: Thank you. Senator Gomes of Bridgeport.

SEN. GOMES: I thought I should comment myself, I shouldn't have anybody from Trumbull comment about a lawyer from Bridgeport you know.

And I guess I have known you for about 25 years working out of the city attorney's office. I think you have been one of the fairer people in that city attorney's office. And you know I have had a lot of wars with the city attorney's office.

I just want to say welcome up here and I thank you for being here now. I think that you would make a pretty good judge.

BARBARA BRAZZEL-MASSARO: Thank you Senator Gomes, I appreciate that.

SEN. MCDONALD: Thank you, Senator. Are there any other questions from members of the Committee? Representative Morris.

REP. MORRIS: Thank you, Mr. Chairman. And congratulations on your nomination. The questions I would ask you are not primarily

just to you, more likely I am asking them of all the judges coming before us today.

BARBARA BRAZZEL-MASSARO: And they're getting an opportunity thanks, and I won't.

REP. MORRIS: What is your perception of racial disparities in the judicial system?

BARBARA BRAZZEL-MASSARO: It is something that I have not looked at. And I will tell you why because I do not look at people based upon race, I look at what I do for my job. The people I represent in the City are from all very backgrounds, and I work with anybody depending upon who they are because they need legal help.

It is my opinion, that is the way I have always conducted myself. I don't think I can say that I've noticed at least from my perspective with the racial disparities.

I recall when I first went into practice in Federal Court some 24 years ago in Bridgeport. And I was the only woman in the courthouse. And I used to think that that was a little bit unusual, and I think it is strange, and I don't want anyone to feel uncomfortable in a position.

I have always just said that you take the person for who they are and that is the way I treat people, so I don't know I could, that there would be that particular disparity among anyone as far as I look at.

REP. MORRIS: It would be fair to say that you don't sense there are any disparities in the judicial system. Second question, do you have any opinion on the lack of or increase of persons of color that can benefit the judicial system?

BARBARA BRAZZEL-MASSARO: I haven't thought about it but I certainly think that would be a benefit. I think it would be a benefit because it would make people more comfortable.

I think that one of the things we need to do in the court when people come and we want them to have a certain level of comfort. I think having someone that you feel more comfortable with and somebody that can understand your position is always helpful.

REP. MORRIS: And last question, would you consider unjust where concerning the other judicial nominees of color remain on the list for years, would you consider this a matter of inequity or injustice?

BARBARA BRAZZEL-MASSARO: I don't know about that I don't know who was on the particular list. I only know that I was fortunate enough to be asked to come in before the Legislature and to be nominated for this position. I would think that people are, as I say, I judge people based on the individual.

REP. MORRIS: If it were factually presented to you, that other members of color who remain on the list for years qualified as such going through

the same process as you, and they remain on the list for years, would you consider this a matter of inequity and injustice?

BARBARA BRAZZEL-MASSARO: I don't think I can answer that question because I don't have the information to be able to tell you that is an accurate representation. I'm sorry.

REP MORRIS: Thank you.

SEN. MCDONALD: Any other questions from Members of the Committee? Let me just also, sorry, Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. I was just for the benefit of the Members of Committee checking with the House about, the House session is supposed to begin in 15 minutes at 11:30 we have, this is the first of four judicial nominees. We are contemplating a vote on these nominations as soon as the hearing ends.

And then we have eight additional bills that were referred to us. So I believe at the moment that they are going to wait for us, but I just wanted to let everyone be aware of the current situation.

The Program Review, I mean the Legislative Noms Committee is conducting its hearings on the new DOT Commissioner and those are ongoing too. I'm not sure how much time we will have but everyone is aware that is the situation we are in at the moment.

REP. WALKER: Yes, Mr. Chairman. So what you're saying is that we really don't have that much time to really talk to the judges and ask some questions? Is that correct?

REP. LAWLOR: That is not what I'm saying. I am simply saying people have been asking what is going to happen since the House is going to go in session in 10 minutes. I said I would just check with them and they're waiting on us. So that is the current situation, they are waiting for us to finish.

REP. WALKER: Okay, if we don't finish then by the time they are ready, then we will postpone the meeting?

REP. LAWLOR: I think we have to finish them because the nominations will lapse. So my sense is we will finish, I'm just telling people that I have just spoken to the Majority Leader who assured me they are waiting for us.

REP. WALKER: As we've known, we have always had opportunities to talk to judges and get a feel for them and everything, and so would be very hard pressed for me at least to vote for somebody who I would not be able to talk to. So I just wanted to express that. Thank you, Sir.

REP. LAWLOR: I just wanted to be clear. People have asked are we supposed to be done in 10 minutes, and we are not going to be done. And I just wanted people to know that I have spoken

to the Majority Leader and they are not going to convene the House session until we're done. And so I just want people to be aware of that.

So I did have a question though, Mr. Chairman.

SEN. MCDONALD: Okay.

REP. LAWLOR: Good afternoon or good morning.

BARBARA BRAZZEL-MASSARO: Good morning.

REP. LAWLOR: Congratulations.

BARBARA BRAZZEL-MASSARO: Thank you.

REP. LAWLOR: You have heard there are a variety of concerns in the Legislature and you have acknowledged on the issue of racial disparities. It is a topic that you don't have a strong opinion on at the moment, because you have worked in the civil courts for the most part, I understand that.

I want to raise another topic with you, my sense is that you may also have not devoted a lot of thought to this, and I just wanted to highlight this as an additional, racial disparities share as a major concern. And another one is the treatment of victims of crime in the criminal justice system.

Are you aware that in 1996 the state amended the Constitution to provide specific rights to victims of crime?

BARBARA BRAZZEL-MASSARO: Yes, I am.

REP. LAWLOR: One of the lingering questions is notwithstanding the fact that those are rights enshrined in the Constitution, notwithstanding the fact that there are many statutes guaranteeing the rights of the victims of crime, there is at least a perception that often times people work in the criminal justice system whether judges, prosecutors, police officers, whatever, do not respect crime victim's rights to the extent that I think we expect that they would.

And so one of the concerns is if there is a violation of crime victims' rights, what is the remedy? I don't know if you have any thoughts on that, I have some specific questions, but do you have any thoughts on that general question?

BARBARA BRAZZEL-MASSARO: No, I have not thought about that. I do know that there is a very active organization at least in the Bridgeport court for victims. And there is an individual who is actually a former employee of Bridgeport who works very diligently with victims.

REP. LAWLOR: Well, let me ask you a specific question you know, one of the specific rights that is actually in the State Constitution says that a victim has the right to be notified of any court proceeding prior to the time of sentencing. They have the right to be at the sentencing, and speak and voice their concerns.

They also have a right to be notified prior to the acceptance of any plea agreement or guilty plea by a judge. And they have a right to speak in court and object to or support whatever plea bargain or plea agreement is being suggested by the prosecutor.

So that is in the Constitution. Do you think that if you were a judge and it turned out that a plea agreement was entered into, in other words, you accepted a guilty plea with the promise of a particular sentence being imposed, and it turned out that the victim was not actually notified, do you think that would invalidate the plea itself? How do you think that that situation would be corrected?

BARBARA BRAZZEL-MASSARO: I hadn't thought about that. I suppose it depends on how the laws written, I think I would go back and look, and look specifically to see if there is any remedy that could be provided for purposes of the victim.

But I think that maybe that needs to be taken care of when a plea is taken. And the judge needs to be sure that if there is a victim of a crime, to be certain that whoever is handling that has contacted the victim. Maybe that should be part of the canvassing that the judge does before they accept a plea bargain.

I know that I had one instance where I represented individuals with individuals going for an AR which was pretty simple. But, anyway, we actually made sure that we got to

the state's attorney and indicated that there was an objection to the AR being granted.

And I think that judges need to be more aware of that in situations. I mean a lot of people focus on the state's attorney and the defendants. And somehow out of that loop the victims get lost.

And in my personal opinion that is not right. And I think in almost every case that you have before you in a criminal court there's going to be in some way, shape, or form a victim. And that the judge should be aware of that. And be on top of it to ask.

And to be certain that those victims have been given their rights. And I think that would negate having that problem thereafter, okay, now how do we remedy for the plea bargain has already been entered on the record.

REP. LAWLOR: Well, thank you, and I think that is in my opinion at least a very appropriate answer. I think that is the way the system should work, and I am sure you understand this about if you are confirmed by the General Assembly, the most likely first stop for you will be in one of the busy criminal GA courts in the state.

And you'll have to be a quick learner, and I think it is fair to say if you are not experienced with what this is actually like, the workload in the GA courts, the overwhelming pressure on a day-to-day basis to resolve cases

and ensure that things do not fall through the cracks, that will be your first stop.

And you will see firsthand the challenges of these issues that are being highlighted here today. I am quite confident that you will notice very quickly there is a racial disparity in people appearing before the court, and I think you'll have to keep in mind the comments that you have heard here today.

I think you will also notice very quickly that there will be a lot of pressure to move cases, and there will be a sense that the notification of victims is an obstacle to doing it. And I think there will be a fair amount of pressure to find ways to overlook that. I hope you will resist that temptation. Go ahead.

BARBARA BRAZZEL-MASSARO: If you know me Representative Lawlor, I will not be asked to overlook anything. If it is the letter of the law, and that is what needs to be followed, I am going to follow it.

And whether or not there is pressure because there is a heavy docket, whether there is pressure because individuals want to push the cases along, as a judge I cannot become an individual who is a pawn in that particular proceeding.

I think I have a different position and it is going to be my job whether there is a heavy docket or not to be sure that everybody is

given the rights. And to be sure that the system treats everyone fairly.

And that is my understanding of what a judge is about, is fair and precise and accurate. And I intend, if I am nominated, to follow that.

REP. LAWLOR: Thank you. And by the way, I would have similar questions to ask of your three colleagues who are coming up. So rather than me having to repeat these questions I hope they're listening, and I will just sort of ask their thoughts on these issues.

The final thing I want to highlight to you, in terms of the criminal justice system, just last week the General Assembly approved a number of very significant procedural changes for the way the criminal courts are run. The Governor has yet to sign the bill but we have been assured that she will.

Generally speaking, we have been assured that she will. So I am assuming this will become the law very quickly. It is effective on passage so this will be an immediate change and there are a couple of very significant things are changing.

Number one, the law is going to require that prosecutors whenever someone is arrested and charged with his most serious, violent crimes, it is going to require that prosecutors have to determine whether or not they are eligible to be treated as a persistent offender. In other

words, do they have one or two or more previous strikes so to speak?

In the law it says that a judge may not accept any type of a plea in court, not guilty, guilty, or no contest unless a judge is to assure that the prosecutors have actually explored this.

So if someone is charged with one of these most serious, violent crimes, it will be the judge's obligation to make sure that the prosecutors have checked to see if they are a persistent offender.

And the laws also are going to require that is in fact they are a persistent offender, the prosecutors are going to have to explain why he or she is not charging them and exposing them to this enhanced punishment on the record at the outset.

And even if they do charge them, the law is going to require a prosecutor, ultimately, they choose not to pursue a persistent offender prosecution.

So that is going to be up to the judge in the case to enforce this new obligation, which is happening very quickly. I hope the prosecutors around the state are getting ready for this because it's going to be effective upon passage.

Assuming you are appointed by the General Assembly in the next few days, and assuming

you're on the bench in the next few weeks, this will be one very important responsibility.

The new law also says the most serious violent crimes cannot even be handled in the future in the lower court, in GA court. So if you are in GA court, it is going to be your responsibility those cases of the repeat offenders are sent to a higher court, to the JD court.

So these are the new obligations and my sense is that this will be a big change in the way business is done.

And the reason for this is I can speak myself but, I think, I am also speaking for the General Assembly as a whole is that we want the policy to be on the most serious, violent crimes to be handled in a higher court where there are more prosecutors, more experienced prosecutors, more ability to take cases to trial, less pressure to plea bargain.

So I think that it's fair to say that it's a new public policy in the state. And do you feel comfortable with that as I have explained it?

BARBARA BRAZZEL-MASSARO: Yes, I do. In fact, I have been watching a lot of Channel 19 where they have been discussing this particular changes in the law.

And I, certainly, and I do feel comfortable, and I do think what is going to happen is there is going to be a large checklist sitting with

me on the bench as to various aspects that need to be taken care of before any case leaves the courtroom that I would be sitting in.

REP. LAWLOR: Did you understand that part of this requires judges and prosecutors and others to understand that if we are going to put an increased focus on some things, necessarily a lesser focus on other things. But I think the focus at the General Assembly wants us to focus on violent offenders, especially, repeat violent offenders.

BARBARA BRAZZEL-MASSARO: I understand that. And I'm willing to do it, I am anxious to do it. I'm a hard worker, I know I will be doing a lot of night reading, weekend reading, being prepared for whatever should come before me. But as I indicated I am intent upon following the law.

REP. LAWLOR: And I just want to make a request of you. And that is that compared to a few years ago there is just a lot more information available about the way our criminal justice system is working, a lot more data, a lot more statistics.

The Office of Policy and Management now has a website where every month you can get an update on a number of inmates, whether it is going up or down, types of crimes they are committing, and the number of arrests, and the disposition of cases.

And I think as you probably are aware, our prison system is at least full, probably, overcrowded. And then working our way through this number of problems is going to be a big challenge for everybody in state government.

The Governor said that we are not building any more prisons, and to do so would be extremely expensive and controversial, and, obviously, no one wants to prison in their town.

So that is probably not really an option. So we're going to have to make do with the resources that we currently have.

In part that is going to be the responsibility of the judges in the criminal courts to ensure that they understand that we only have so much capacity, and that the first priority is going to be repeat, violent offenders.

And I hope you encourage your colleagues to be up to date on the statistics, to understand what the capacity really is, and make your decisions accordingly. So that is just a request that I am making, and I hope--

BARBARA BRAZZEL-MASSARO: Thank you.

REP. LAWLOR: Take it for what it is worth.

BARBARA BRAZZEL-MASSARO: I certainly will, thank you.

REP. LAWLOR: Thank you very much.

SEN. MCDONALD: Representative Geragosian.

REP. GERAGOSIAN: Thank you, Mr. Chairman. A few minutes ago Representative Morris asked you a couple of questions about racial disparity in the judicial system. And you seem to say that you didn't think that was any. Is that your position? Or is it that in your court?

BARBARA BRAZZEL-MASSARO: I do, several, I am not really that well aware of it. And I indicated that I cannot respond to him as he asked me the question, I do not have all of the information before me to be able to tell you yes or no.

I said I certainly think that people deserve to have individuals that they feel comfortable with, I think that was my response to his question.

REP. GERAGOSIAN: I think you have to know that Connecticut is about the most disparate state in terms of the inmate population versus the general population.

It is a fundamental underpinning of what is going on in our criminal justice system. So I would suggest that you find out about it, if you're not reversed on it at this point. Thank you, Mr. Chairman.

BARBARA BRAZZEL-MASSARO: Thank you.

SEN. MCDONALD: Thank you. Representative Gonzalez.

REP. GONZALEZ: Good morning. If they appoint you to juvenile court, what kind of expertise do you bring to that kind of job?

BARBARA BRAZZEL-MASSARO: I have not had a lot of experience in juvenile court, I would assume that it would be pretty much the same. I do know that there are two different types of juvenile work that is done which is the child protection and delinquency.

I'm familiar with that particular area. I would assume that if I am appointed to the juvenile court, I would become very familiar quickly with all the various nuances in the child protection system.

And the delinquency, it would be treated somewhat the same I think as some of the criminal, although the different ways that the procedure is conducted.

It is a closed procedure for juveniles and I think much more concerned about the fact that we have juveniles here talking about trying to put them back out into a good life, we're trying to guide them.

And I would hope that as a juvenile judge, if I was doing that, then I would be able to look at that and send the children back out with hopes of making them good citizens.

REP. GONZALEZ: And you believe as you just said that the laws are all the same?

BARBARA BRAZZEL-MASSARO: I think it as a criminal law it would be the same particular statutes, however, what you would do is you would look at it a little differently than the delinquency courts.

Because you're talking about a child you are not talking about an adult. The way that you would dispose of the case may be different for child versus an adult.

I mean sometimes especially if it is a first offender, a child in juvenile did link with the court, this might be their first experience in the court.

So I think it would depend upon the facts and circumstances of that particular child coming before you. I have taught almost all of my life, I have always been involved with children.

I think the children are precious, I think that we need to protect them, and I think that is one of the reasons that the juvenile courts are set up the way they are in order to offer some degree of protection to our children. And I think you have to have that in your mind.

REP. GONZALEZ: Thank you.

SEN. MCDONALD: Representative Hewett.

REP. HEWETT: You have to forgive my voice I did a roast this weekend I did this amount of laughing, so I'll try to talk a little low. I

heard you say something few minutes ago I think Representative Lawlor had asked you about pushing cases through the system.

I'm not sure what your answer on it was, but we have 10 days to go in session, and I am fairly new on this Committee, as a matter of fact I think this is my second time being up here in the process of confirming judges.

My question is more to the Committee, it is normal for us to be, which is supposedly went into session five minutes ago. We have four new judges in front of us, it seems like to me we are the ones that are pushing the cases, are trying to get for new judges confirmed is like it is on a fast track.

And I don't understand. It is like looking for a doctor, would you pick a doctor to operate on your gallbladder with five minutes to go? Would you do that? Would you want, I want this question to be answered by every judge, everyone that is up here to be a judge.

SEN. MCDONALD: I'm sorry.

REP. HEWETT: I have a lot of questions, I've done a lot of questions. And we are being asked to push this on a fast track to get you confirmed. Would you want to be confirmed into Connecticut Superior Court without all the questions answered? Would you?

SEN. MCDONALD: Representative Hewett, maybe let me just clarify--

REP. HEWETT: Like I said I am new. Make me aware of the process.

SEN. MCDONALD: And that's fine. We are going to continue this meeting until every single Legislator has had an opportunity to ask every single question that they want to.

If the House goes in the session, and we will, as required by our rules, we will recess, and we would continue at the conclusion of the House session whenever it is needed.

But no Legislator will be asked to vote on any judicial nomination until they have had an opportunity to ask and get answers to all of the questions.

REP. HEWETT: Thank you so much.

SEN. MCDONALD: If, are there any other questions? If not, let me just say that you have this distinction, I guess, of succeeding Judge Robinson who was elevated to the Appellate court. And I know too that he too was an assistant corporation counsel at one point in his career in the great City of Stamford.

Just want to ask you as a resident of Trumbull you may very well be asked to make the journey from Trumbull to Stamford to sit in the Stamford Superior Court. If you are asked to do so by Judge Quinn, will you do so gladly?

BARBARA BRAZZEL-MASSARO: Gladly or will it do it?

I will certainly go wherever I will be assigned. Stanford is not as most people think, they look at the traffic they cringe.

I am a great advocate of public transportation so I assume I would be hopping on the train every morning and taking the train down to Stamford.

SEN. MCDONALD: And the judicial branch makes that very easy for you now actually. So thank you very much. And congratulations on your nomination.

BARBARA BRAZZEL-MASSARO: Thank you.

SEN. MCDONALD: The next nominee is Mark Gould of North Haven. Please raise your right hand. Do you swear that the testimony you are about to give us is the truth, the whole truth, and nothing but the truth, so help you God.

MARK GOULD: I do.

SEN. MCDONALD: Please have a seat. And just before you start, I want to follow up on what I said in response to Representatives Hewett's questions.

I apologize if we do have to recess the meeting. Hopefully, you have other things that you can do while you wait for the House to conclude its work, but we will be continuing the meeting if we need to recess. If have to cut you off in the middle of the questioning

please just accept the Committee's apologies upfront.

MARK GOULD: Good morning, Chairman McDonald, Members of the Judiciary Committee. My name is Mark Gould and it is truly a pleasure to appear before you.

I am both honored and humbled to be considered for a position as a Judge on the Connecticut Superior Court. I want to thank Governor Rell for putting my name before you. I also want to thank the Committee for the time and effort it commits to this important task.

I also want to thank the many fine, talented judges, attorneys, laypersons, staff, family, and friends who have assisted me in my life and my career. I'm also honored to be here with three nominees who represent the very best of our profession.

I have been blessed to have learned from, been mentored by, and, most importantly, raised by those who taught me not only what it means to be a good lawyer, but what it means to be a fair, just, and good person.

I was born in Westerly, Rhode Island in 1955, I grew up in Mystic, the only child of two strong, independent parents who taught me early on the value of treating people with dignity and respect and to value each interaction no matter how small.

I may well have been one of the original latchkey kids since both of my parents worked full-time out of the home as my mother used to proudly say, pretty much from the day I was brought home from the hospital.

My mother was a business manager at Mystic Seaport, and my father a Greyhound bus driver. For that reason, at least during weekdays, I was watched and guided by my grandmother, who actually was the first person to teach me how to throw and hit a curveball.

From the earliest days I can remember, both of my parents instilled in me the values that continue to guide me today, personal responsibility and humility, respect for all others, regardless of stature or level of life, the importance of education, and most importantly the concept of public service, giving back and to others.

I can still hear my mother saying, you owe. Those who give of themselves without expecting anything in return know what she meant with those words, and I have heard them as my guide throughout my life.

She not only talked the talk but walked the walk, frequently animating cardigan and fisherman sweaters, and handing them out to homeless on the streets of Norwich and New London, sitting on the board of the NAACP in New London in the early 60s and working in various soup kitchens, homeless shelters, and group homes.

I graduated from Stonington High School in 1973. In 1976 while I was a junior in college my father passed away after a lengthy illness. I attended the University of Connecticut from where I graduated in 1977.

While at UConn, I became involved with the campus radio station, I became a disk jockey, sports editor of the school newspaper, the Daily Campus, and also did radio play-by-play and commentary for UConn basketball games starting a lifelong affair with a Huskies.

After graduating from college, I worked for various newspapers and radio stations in New England and New York, but I always had a dream to go to law school and become a lawyer. I attended Lewis and Clark Law School in Portland, Oregon and graduated in 1983.

Upon graduating from law school, I returned to Connecticut since my mother was alone here, it turned out to be the best decision I ever made because upon my return I met my wife, Jan, to whom I owe everything that's happened to me since that. She continues in a long line of strong, independent women who have deeply influenced my life.

I joined a New Haven law firm, Del Sole & Del Sole, and I was exposed to litigation for the first time, starting yet another love affair that of being in court on my feet arguing cases on behalf of my clients.

I was named a partner in that firm after four years, I then transferred my practice to Fazzone, Nuzzo & Baillie in Cheshire where I work for five years, the last two as a partner.

I then changed direction a bit, accepting a position as a senior trial counsel with Liberty Mutual's staff counsel office in New Haven. In 2002 opening my own solo practice before joining with my current partner, Larry Greenberg, in New Haven in 2006.

For almost 20 years, I had the privilege to work with and learn from some of the finest judges and attorneys in the state. My practice is civil trial litigation, where I have represented individuals, corporations, and small businesses. I've also handle a number of GA motor vehicle, family, and housing matters for clients.

I also tried approximately 40 jury cases to verdict just about every judicial district in the state. In addition, I have a significant arbitration and mediation practice, and have worked for approximately 6 years as both an arbitrator and a mediator in the New Haven and Bridgeport courts.

I am an adjunct professor of law at Quinnipiac University in Hampden, where I have been on the faculty for 13 years. I also lecture and write extensively on various legal and on legal topics.

I have thoroughly enjoyed the practice of law, and found it very rewarding to assist people in resolving their legal disputes, and I found that there is always something new to learn, some new challenges every day. This dynamic is always getting me invigorated, excited, and enthused about the law and its important place in our society.

I have always expressed one crucial tenet throughout my career that is, no matter how successful I have been, the practice of law has not been about me.

It's been about being of service to the people, trying to ease their concerns and qualms about a system that while it is there to serve them, and may well intimidate them, and, in time, to help them resolve their differences in an atmosphere of respect and dignity that leaves them with the feeling that the legal system and its representatives, starting with me, treated them fairly and equally.

I've always kind of follow that philosophy as an attorney and would do so as a Judge of the Superior Court.

Personally, Jan and I have lived in North Haven for about 15 years and remain active in the community continuing a lifelong pursuit started in high school when I became involved with big Brothers, and, in that after college, when I taught in Literacy Volunteers.

Currently, I am a member of the North Haven Inland Wetlands Commission and serve as an ambassador with a Quinnipiac Chamber of Commerce. My mother passed away from breast cancer so I frequently do volunteer work for the Susan G. Komen Foundation.

Over the years, I have gained great satisfaction from volunteer service to our community. And after 24 years in legal practice I continue to make public service my overriding vocation.

For someone who loves the law, loves being in the courtroom, I can think of no better public service than being a judge. I am truly humbled by my nomination, the opportunities it presents, and my appearance before this Committee.

I assure you that if confirmed, I will perform the duties of a judge diligently, fairly, and humbly.

Thank you again for your time and consideration, I will be happy to answer your questions.

SEN. MCDONALD: Well, thank you for your time and your statement and I am going to have to impose on your time more than you probably suspected. We are going to have to recess this meeting.

I apologize to you and the members of the public who are here to testify as well as the

other nominees, but the House is going to be commencing its session.

We are precluded by our joint rules from having a Committee meeting while either chamber is in session, so I ask for your indulgence, and we will be announcing as soon as possible when we can reconvene the meeting.

My guess is that it will be after the House session which you can bank on will be at least several hours from now.

So we are going to stand in recess until the announcement for reconvening of the meeting. Thank you.

MARK GOULD: Thank you, Senator. [Changing from Tape 1B to 2A.]

SEN. MCDONALD: --back to order and we will resume our public hearing on, and we will resume our public hearing on the nominations that have been submitted to the Committee by the Governor's office.

When we left before the recess, we were considering the nomination of Attorney Gould to be a Judge of the Superior Court. I want to thank you, Mr. Gould, for your patience. And certainly thank you for your testimony before the Committee.

Are there any questions for Attorney Gould? Representative Lawlor.

REP. LAWLOR: Thanks, Mr. Chairman, and congratulations, Attorney Gould. I am sure you were here earlier when I asked a series of questions to the previous nominee relating mainly to the crime victim's rights amendment to the Constitution and some general concerns that people have.

So rather than me asking all of those questions all over again would you just tell us, generally speaking, what you think on those topics?

MARK GOULD: [inaudible - microphone not on]

REP. LAWLOR: I think your mic is not on. Would you just press the button there? There you go. When the red light is on your microphone, it is on. Try it one more time. There you go, better. You understand you're still under oath?

MARK GOULD: Yes, Sir. Thank you. Representative, as I said in my opening statement, I think that anything that brings people within the system and gets people to understand the system and feel comfortable with the system is something good. I think the victim's rights legislation is something good and has done just that.

It is important that everyone who was involved with the system be heard. And the victims, of course, being a very, very central part of that.

REP. LAWLOR: And you understand that the provisions in the Constitution are just symbolic or designed to make people seem as though they have certain rights, they actually have a substantive rights.

We don't quite know what the remedies are yet because it hasn't gotten to the Supreme Court but sooner or later, I guess, the Supreme Court will answer that question.

For the moment there are both statutory and constitutional rights, which are substantive, and you would have an obligation as a Judge of the Supreme Court to honor those rights. You understand that?

MARK GOULD: Yes, Sir. I do.

REP. LAWLOR: Thanks very much.

MARK GOULD: Thank you.

SEN. MCDONALD: Other questions? If not, let me just ask Attorney Gould given your background and experience what do you think would be the most challenging transitional opportunities that you would have going from private practice to the bench?

MARK GOULD: Senator, as I said before, the vast majority of my experience is in civil litigation, and I think because of that the other areas would be a very big challenge to me.

As I said before, I've always been one that wants to learn something new every day, I do look at it as a challenge as you said. I am not averse to asking questions and I enjoy learning.

SEN. MCDONALD: Okay. What do you think given your experience in the civil context is the ripest opportunity for change on the civil side of our judicial system?

As a Superior Court Judge you will have a vote and a say as a member of the Superior Court and the rules committee, and have an opportunity to offer suggested changes to the practice book and court operations.

What do you see based upon your experience in the civil docket would be the best opportunities for improvements to court operations and the rules of practice?

MARK GOULD: Senator, I think anything that streamlines the process and allows citizens of the State of Connecticut better and quicker and swifter access to the courts is always something that is positive.

I think in the past several years I think that efforts have been made to cut the docket down substantially in the civil area, move cases along in a much more streamlined manner.

I wholeheartedly support that and I think that efforts have been made to move in that direction and probably should continue.

SEN. MCDONALD: One thing that this Committee has focused on in points in the past is the 120 day rule for acting on motions that have been argued to the court.

In our experiences as a rule that has been working particularly well, well, let me ask you this way, if there is a violation of the rule, it seems to me that under existing practice the burden falls on the litigants.

One, to enforce it, right, and to tell a judge that he or she is out of time, and two, to bear the cost of re-litigating the item because the judge hasn't rendered a decision in a timely fashion.

In your estimation is that a fair burden to place on the litigants?

MARK GOULD: Senator, my experience generally has been and I have filed an awful lot of motions and received an awful lot of decisions from the court, the vast majority of time I think they have come in within 120 days.

So from my personal point of view I have not seen a problem. I have heard from other lawyers who do significant trial work that occasionally there will be a situation where it has gone past the 120 day requirement.

And in that realm it is very difficult because you do not want to be in a position where you are the one who is giving a gentle nudge to the

court system. Because you always have that paranoia that you are going to be receiving an adverse decision because you are the one who called or wrote whatever.

So you have to be very careful with that, you have to respect to the system. From my point of view, as soon as you can get a decision affects everyone.

It could affect the settlement of the matter and it also creates a situation where the litigants who have come to court seeking justice and seeking a resolution are getting that and getting out in a timely manner.

SEN. MCDONALD: And finally for my part at least, I neglected to ask this question of a prior nominee. Is there anything in your background that you are aware of which if not disclosed to this Committee at this time could prove embarrassing to either yourself, the Governor, or to the General Assembly?

MARK GOULD: No, Senator, there is not.

SEN. MCDONALD: Thank you very much.

MARK GOULD: Thank you.

SEN. MCDONALD: Are there questions? Representative Walker.

REP. WALKER: Thank you. Thank you, Mr. Chairman, and good afternoon, Sir.

MARK GOULD: Good afternoon.

REP. WALKER: Sorry for the delay.

MARK GOULD: That is quite all right.

REP. WALKER: As you know we just finished passing the persistent-offender bill. And in that persistent-offender bill it limits, it has a mandate in there that basically limit the powers of the judge.

And many of us had very strong concerns about it, because we felt that the judges should be the ones to make those determinations, especially, because we feel each case would be individual.

What is your feeling about the idea of limits for judges giving them mandates as a platform when they actually start working on the case?

MARK GOULD: Representative, I don't have much experience in criminal law. I follow it a little bit in the news about the bill and if and when the bill becomes law, I will have no problem from the bench enforcing that law in a fair and equitable manner as I would with any case.

REP. WALKER: Do you feel as Legislators that we should be making that determination? I guess I am asking as a judge your job is to make those determinations, and I think that we sometimes step outside of our arena and we make these laws.

Being a judge and overseeing a case, how do you think you can make a fair judgment if we are putting in laws that are going to set parameters and platforms before you even start?

MARK GOULD: Representative, from my point of view, it as a Legislator's job to make the laws. Whatever laws this body decides is appropriate I will enforce it equally and to the best of my ability.

REP. WALKER: We have also been talking about the racial disparity that we have in our court systems. We feel that obviously because 72% of offenders in the system are minority or people of color.

Do you know that there are some things that we should be doing in order to address that, to try and help equalize the process in the system?

MARK GOULD: Representative, I am not an expert in that area, I have not read much of the literature or the data. The only thing that I can tell you is that I am sensitive to that, and I can pledge to you that if I am confirmed as a Judge of the Superior Court, I will apply the law equally and fairly regardless of race.

REP. WALKER: Do you see the racial disparities in your courtrooms when you have run into them?

MARK GOULD: Again, from my point of view, I have not, because of the area that I practice is

civil litigation. I don't see it that much but I am aware of it and I am sensitive to it.

REP. WALKER: We have also had some, many of us have had some concerns about the fact that we have very few black or Latino judges that are in the system. And we are trying to figure out a way of how to address that. Do you have any suggestions on that?

MARK GOULD: I really don't be honest with you, Representative. That decision, as you know, who is nominated and who comes before you comes from the Governor's Office, I play no part in that.

REP. WALKER: Many people have said they do not know what the number of minority lawyers that are out there that qualify, have you seen several lawyers from minority backgrounds working even in the civil areas?

MARK GOULD: In civil areas in my experience not, no.

REP. WALKER: I am also a very strong supporter of juvenile justice, I think we need to do some work in changing the laws in addressing our juvenile system.

Obviously, in the civil cases you would not see that many but are you familiar with some of the juvenile, especially, because you would have to go through one of those courts, you have any ideas how we could address the juvenile issue with the state?

MARK GOULD: Again, Representative, I am not an expert in that area because my expertise in my experience has been more in the area of civil litigation.

REP. WALKER: Okay, that is your answer for all of them. Okay, thank you very much.

MARK GOULD: Thank you.

SEN. MCDONALD: Thank you. Are there other questions? Representative Green.

REP. GREEN: Thank you, Mr. Chairman. Good afternoon. I think we started this morning with you and then this afternoon.

MARK GOULD: Yes, Sir.

REP. GREEN: Could you, if you don't mind and I'm not sure you really have to disclose this, but I would be interested how long ago did you apply to be nominated or at least once through the process with the Judicial Selection Committee to become a judge?

MARK GOULD: I am not exactly certain, Representative, but I believe it was about five or six years ago.

REP. GREEN: And, again, I am trying to become familiar with the process. You may have applied a few years ago, you may have an immediate interview, are you notified soon after that process whether or not you have been

designated or put on a list that you can become eligible to become a judge?

MARK GOULD: I do recall going through the Judicial Selection Commission. And receiving a letter about 48 hours after that, Representative, that I had been approved and that my name would be given to the Governor and placed on a list. After that I have no idea what anyone did in terms of that until I received a call from Governor indicating that she was going to place my name in nomination.

REP. GREEN: And if you had gone through that about five years ago, do you communicate with the Judicial Selection Committee or someone in terms of where you are at on a list? Is there any interest, you just go to wait until somebody calls you, how did that happen?

MARK GOULD: That's basically it, Representative. After a certain amount of time I received a phone call asking if I was still interested in a nomination, indicated that I certainly was. And here I am.

REP. GREEN: Okay. Thank you, I am actually very impressed with your opening statement and your compassion I was able to glean from your statement, and some of the things that you have gone through.

Just a couple more questions. Have you heard, recently we have been talking a lot about what we call a Sentencing Commission, and whether or not the State of Connecticut should have one.

Have you heard anything about this concept of a Sentencing Commission?

MARK GOULD: No, Representative, I have not.

REP. GREEN: Okay. Have you or are you aware of any other states that might have something similar to the Sentencing Commission where they sort of review the charges and the type of sentencing they will offer based upon a particular kind of crime, and whether there should be any recommendations. Are you familiar with any other state?

MARK GOULD: No, Sir. I am not.

REP. GREEN: Okay. You had mentioned that you have done a lot of work in civil court. Do you have any thoughts as to how that experience in civil court might help you if you were a judge in criminal court?

MARK GOULD: I think pretty much every day, Representative, doing what I have done for 20 years. I have tried to look at things from an honest point of view, from a fair point of view, as I said in my opening statement, my tenet and practicing law has been to try to make the process smooth for the litigants that are there, the citizens of the State of Connecticut.

I would take that philosophy into whatever area that I was put into as a Judge of the Superior Court.

REP. GREEN: Okay. Sometimes when I go into and observe the criminal court process, in my opinion, sometimes when I am looking at the dynamics, it appeared that the prosecutors had a quite extensive and important role in that process.

Have you thought about if you were a judge, what you think that your relationship with the prosecution might be, and what do you think the role is between a judge and a prosecutor?

MARK GOULD: Having not much expertise in that area and not feeling from that point of view that I am an expert, I really have not given that much thought, Representative.

REP. GREEN: All right, thank you.

MARK GOULD: Thank you, Sir.

SEN. MCDONALD: Are there any other questions?
Senator Meyer?

SEN. MEYER: Thank you, Mr. Chairman. Mr. Gould I think you are actually associated with one of my children who is Jeff Meyer, Professor of law at Quinnipiac, and his wife, Linda Meyer, my daughter-in-law.

MARK GOULD: Yes.

SEN. MEYER: And I have a similar background as you as a litigator. And I had an occasion when I was practicing law in New York to take a judicial position. And I found that it was

difficult because I had been an advocate for so long.

Have you thought about the difference between being an advocate and now being a judge, where you have to remove your advocacy, listen carefully, and reach an impartial decision?

MARK GOULD: Senator, I have always been an advocate that I have been an advocate for fairness more than anything else with the people that I have been with in court.

I've had clients to represent, I have represented them to the best of my ability but I have never forgotten that I am there as a representative of the system in the State of Connecticut.

And I have always ensured that there's been fairness to everyone that have come in contact with when I have been in court, and I would hope to take that philosophy as a Judge into Superior Court. Thank you, Sir.

SEN. MCDONALD: Are there questions? Representative Morris.

REP. MORRIS: Thank you, Mr. Chairman. And congratulations on your nomination.

MARK GOULD: Thank you, Sir.

REP. MORRIS: I'm going to ask similar questions because I have asked of the earlier interviewees. It is no reflection on you, I am

trying to get a sense of something from everyone on.

First one, what is your perception of the existence of racial disparities in the judicial system?

MARK GOULD: As I indicated earlier, from practicing law in the civil area I have not personally observed that. I am aware of it and I am sensitive to it, and I will pledge to you that if I am confirmed as a Judge in the Superior Court, each and every person who comes in front of me will be treated equally and will be treated fairly regardless of race.

REP. MORRIS: Thank you. You have any opinion on the lack of or the increase of persons of color can benefit the judicial system?

MARK GOULD: I am not an expert in that area and it is not something that I have frankly given a lot thought to. But again from my point of view, I will act fairly and judiciously with everyone that comes in front of me, and I believe from my point of view that I will be doing that and that will be where I will be at.

REP. MORRIS: I guess generally from a life experience not so much from your experience as a lawyer, could you offer an opinion of whether you think it would have a benefit in the judicial system or not?

MARK GOULD: I am sorry, I do not understand your question.

REP. MORRIS: Okay. Just from your general life experience, all right, you believe that there would be a benefit to having more persons of color in the judicial system, would it benefit? Or would the lack of persons of color be a detriment to the effectiveness of the judicial system?

MARK GOULD: I can't imagine it would possibly be a detriment, I think getting people into a position from all different walks of life will always better the system. That is the best answer I can give you.

REP. MORRIS: And the last question, would you consider it unjust concerning the other judicial nominees of color remaining on the list for years. Answer from a hypothetical standpoint, in other words, if I am factually telling you, all right.

The fact is that there are other persons of color, they have been on the list, and their names have not been brought forward. Would you as a judge consider that a matter in an inequity and injustice?

MARK GOULD: I would go back to the same answer I gave you before which is I think that getting different persons from different walks of life can only benefit the system. I have no experience and I have no idea about this list, hypothetically or in reality.

REP. MORRIS: But as a judge your decision-making skills are what is going to be on the table and you are going to be presented with facts. So that is what I'm giving you, a hypothetical situation, and saying these are the facts, what would your decision as a judge be apprised of those facts?

MARK GOULD: There is nothing else that I can add to my answer, Sir.

REP. MORRIS: Okay. Thank you.

MARK GOULD: Thank you.

SEN. MCDONALD: Are there any other questions? If not, thank you very much for your time.

MARK GOULD: Thank you, Senator.

SEN. MCDONALD: The next nominee is Mary Sommer of Stamford. Good evening. Please raise your right hand. Do you swear that the testimony that you were about to give is the truth, the whole truth, and nothing but the truth, so help you God?

MARY SOMMER: I do.

SEN. MCDONALD: Please have a seat and welcome. Attorney Sommer and I have known each other for a long time, it is certainly a pleasure to have you before the Committee, and I congratulate you on your nomination.

MARY SOMMER: Thank you very much, Senator MacDonald. Good evening, Chairman MacDonald, Chairman Lawlor, and Members of the Judiciary Committee.

My name is Mary Sommer and it is truly a pleasure to appear before you today. I'm humbled to be considered for a position on the Connecticut Superior Court. I thank Governor Rell for putting my name before you. I appreciate the time and effort the Committee devotes to this important task and thank you also.

I was born in Syracuse, New York to parents who married when my father returned from serving as an ensign in World War II.

I was the first of their eight children, and nothing I have or will achieve can equal my parents' accomplishment raising eight children who remain close and will do anything for each other. Having educated eight children through undergraduate and graduate degrees, my mother earned her Bachelor's degree at the age of 75.

My father still runs the engineering firm he started after he retired. They both volunteer several days a week at St. Vincent's Hospital in Bridgeport. Their hard work and service to others were part of my youth and remain vital example to me today.

Leaving upstate New York, I attended a grammar school on Long Island. Moved to Fairfield

where my parents still live and graduated from Notre Dame High School in Bridgeport.

An academic scholarship paid part of my expenses at the College of New Rochelle, but in order to pay the rest, I worked three jobs during vacations, logging 90-plus-hour work weeks including work as a lifeguard truly a truly a trail blazing profession at that time.

I began college as the major events of the 60s stimulated a growing interest in social justice and a desire to pursue a career in which I could use my intellect and problem solving skills to help others. I also was determined to explore a more diverse world beyond the campus.

The fall of my junior year, I participated in a program at the United Nations two days a week while carrying a full course load at the College of New Rochelle. Following the UN semester I studied in London.

Foreign study was rare in those days, no cell phones, e-mail, Internet, or even international ATMs. Living in a foreign country reinforced my appreciation of the liberties we Americans enjoy under our Constitution and confirm my desire to study law.

Not knowing any lawyers, I needed a plan and the means to realize. Thus, after graduating with honors from the College of New Rochelle a semester early in December of my senior year, I worked as a paralegal in New York City.

This was an important informative step between my undergraduate education and the University of Notre Dame Law School.

I began my career at the formation of the defense firm of Bai Pollock & Dunnigan. During those watershed years I was involved in major complex litigation statewide, and tried more cases to the conclusion in the first few years that many lawyers do in a lifetime. These involve the evolving product liability, medical negligence, and insurance litigation.

Treated as a peer and held to the highest ethical and professional standards, I was fortunate to receive such broad training early in my career from accomplished trial lawyers and judges across the state.

At Cohen & Wolf my practice expanded to commercial litigation, housing, and family law and I used skills honed as a defense lawyer to represent plaintiffs.

As a corporation counsel for the City of Stamford I added experience a municipal law to my field of practice and developed administrative skills required to manage the City's law Department to provide counsel to its agencies and boards. I truly loved working for the people of the City on ever challenging and unpredictable issues.

However, in 1990 my husband, Jay Sandak, and I took on a new challenge and formed Sandak,

Friedman & Sommer, which is now Sandak, Hennessey & Greco, and has 16 lawyers concentrating at all levels of civil litigation and land use.

The growth and diversification of the firm has enabled me to expand my knowledge in an environment litigating for clients ranging from major corporations to the infant whom I'm presently representing pro bono in juvenile court.

It has also enabled me to participate in a meaningful way in a variety of bar programs and pro bono service.

In 1996, a colleague and I decided to make holidays brighter for children in our community. Twelve years and thousands of toys later the Fairfield County Bar is part of an annual Christmas celebration for families at the Yerwood Center in Stamford.

Since 1996, our Send Your Suits Back to Work professional clothing drives have been able people to return to work with dignity. Recently, helping to establish the Fairfield County Bar Foundation has reinforced these goals of expanding the commitment of the Bar to reach even more individuals and to make justice more widely available.

I have also served as a volunteer Special Master in Federal Court and a State Attorney Trial Referee, having heard over 40 cases, several of which have been affirmed on appeal,

on the Statewide Grievance Committee and the Public Service and Trust Commission for the judicial branch.

It has been an honor to have these opportunities to volunteer in the profession, and I have benefited greatly from each of them.

This year my husband, Jay, who is here with me today, and I will celebrate our 30th anniversary.

Since moving to Stanford in 1985, I have served with the Child Guidance Center of Southern Connecticut and many other community organizations, in PFO and school board president, perennial brownie baker, then later, and soccer/baseball/lacrosse mom to three sons who are now adults following their own dreams in Washington, DC, Chicago, and Colorado.

Two have them, David and Tom, have been here with me today and I am very, very grateful for their support. The third is leading a school trip in Africa.

Teaching has been an integral and rewarding part of my career. While the Notre Dame, a freshman writing program, developing a curriculum called Human Rights in Law and Literature which compared issues such as civil rights and rights of the handicapped in plays and novels with case law.

Teaching business Law and ethics in the 1990s allowed me to relate ethical issues to

intellectual property, employment, environmental, antitrust, and business criminal law at a time when headlines were being made daily. Like most teachers, I learned for my students.

At the College of New Rochelle, most of my students were the first in their families to attend college. Because I taught at night, many of my students came to class after working and caring for families.

I was inspired by their determination to learn and overcome obstacles and hope that I, in turn, inspired them to believe in themselves and achieve. The evenings I spent with the young women were among the most satisfying of my legal career.

I firmly believe that every case is important to those involved, and that every party, whether a multinational company represented by a team of lawyers or individual appearing on his or her own behalf, has the same rights under our laws, deserves the same respect, and is entitled to a fair and just resolution.

If confirmed, I will continue this commitment in my role as a judge. I have sought the challenge of learning whether it is in new areas of law, technical issues of the client's case, building a law firm, or creating a culture of service among my peers.

My practice has involved a broad spectrum of clients and an equally broad range of litigated

matters, including litigation over the sale of an international cable business, land use, employment, dramatic brain injury, and civil rights cases.

I have tried cases in state and federal courts, handled arbitrations and administrative hearings and argued appeals before the Connecticut Supreme Court and the Second Circuit Court of Appeals.

If confirmed, I will have much to learn, not just in the beginning, but every day that I am fortunate to serve the people of Connecticut. As much as I have thoroughly enjoyed my years of service in the community, teaching, practicing law, in building a firm, and therefore deserving of public, and if confirmed, promise you that I will undertake the responsibilities of a Superior Court Judge with humility, integrity, and fairness to all.

Thank you for your time and consideration, I would be happy to answer any questions you have.

SEN. MCDONALD: Thank you, I started out by saying that I have known you for a long time but apparently not. I did not know half of the things that you have done over such an extended period of time.

Certainly, I want to thank you for the contributions that you have made as an attorney trial referee going back to the 80s did you say?

MARY SOMMER: Approximately 1985 or 1986? I will check my resume.

SEN. MCDONALD: And, certainly, for all of your not-for-profit activities and contributions that you and your family members have made to the City at Stamford but also to the State of Connecticut.

MARY SOMMER: Thank you.

SEN. MCDONALD: I'm probably not the fairest judge here so I will move on. Are there other questions? Representative Walker?

REP. WALKER: Good afternoon, thank you for waiting. First of all, congratulations on your nomination.

MARY SOMMER: Thank you very much.

REP. WALKER: I was listening to you and I liked, especially, the part about the young ladies that you worked with in the evenings when you are teaching. And I felt and listening to that I can ask you this and hope to get an answer from you on this.

Looking at and working with those young ladies, how do you feel we should redress the imbalance in the number of minorities we have in the judicial process and judges and everything?

Because to me it would be very difficult, you are asking these young ladies to aspire to

higher levels, but yet when you look at the judicial system the way we haven't, a majority of the minorities are the ones who are the offenders or the people on trial. It is not very many that are judges. So how do we change that, how do we work with that and make a difference in that area?

MARY SOMMER: Thank you very much for that question. Honestly, I wish we had all night to talk about it, it is such an important area. But I will try to be brief and direct.

SEN. MCDONALD: Could you get closer to the microphone so that--

MARY SOMMER: Sorry.

SEN. MCDONALD: Thank you.

MARY SOMMER: The light gets in the way, that's okay.

REP. WALKER: I can hear you.

MARY SOMMER: I'm here today and it is a great honor. I am here because many people supported and mentor to me when I didn't even know how to begin to become a lawyer.

We as lawyers need to begin that process and become more actively involved in mentoring, in inspiring young women and men of all racial and ethnic backgrounds, to really aspire to the profession.

And then aspire to other achievements of whether it is in judiciary or government service, there are just many other ways where we need much broader representation and diversity in our society.

I really firmly believe that. But that will only happen if those of us who are fortunate enough to be sitting where I have been and where I am here today.

Then reach back, it happens by way of education, sharing your story, making opportunities available to other people, that has to happen. And we all have to take responsibility for doing that.

So that if in fact I was fortunate enough to be confirmed, I would take that responsibility very seriously and share my story and try to encourage young people of all backgrounds to follow their dreams whether it is the legal profession or government were to achieve the very best they can. I think in all walks of life we need to have.

We all have a personal responsibility for that.

REP. WALKER: I want to thank you for that answer because you gave me your opinion, and that is something that I refreshingly accept because I have not gotten today. To me that was wonderful.

In looking at the persistent-offender bill that we will be probably passing very soon, one of

the issues that we all had with it was the limitation that a judge has in making the decisions about what time is to be handed down to the person who is being evaluated or whatever, I never get that, I'm not a lawyer, I'm a social worker.

How do you think you can use that to best, working with those limitations knowing that you have a minimum mandate that you have to have, how do you think that is going to affect you when you are on your bench?

MARY SOMMER: I respect the legislative process, no judge can have the wisdom that comes as a result of the dialogue and debate, the study that goes on in creating a law, however imperfect that law may be.

REP. WALKER: You'd be surprised, you probably have.

MARY SOMMER: It would be my responsibility, and I would welcome that responsibility to apply the law that is set. And including the times when there may be restrictions.

My responsibility is to follow that law and where there are places that there is an area for discretion, that I would exercise that discretion based upon all of the different information that would be available to me.

But if it is not, then I have a clear mandate under the oath of office to apply the law.

REP. WALKER: I firmly believe that the judges are the ones who should make the decisions. I was not someone who supported something like that. I believe you have had the training and you have had the opportunities, and when we passed a vote on you that is giving you the authority.

So I was not happy with that. You should be proud that you have such accomplished children and you have gotten them to understand what it is to give back. I think that is something that we all need to do.

Juvenile justice is a very strong issue for me and I have been working on a lot of things in those areas. We are in the process of going to raise the age of adult jurisdiction by 2010. But many of the things that have to happen, the changes that have happen within the court, and how we work with our children, and how we get them out of the issues of crime, and getting them in the right direction, do you have any suggestions, some things that we could do as we work towards that?

MARY SOMMER: Another topic that we could probably spend a long time discussing but I think that I welcome the fact that juveniles are going to be able to be addressed, you know, 16 and 17 year olds able to be held accountable.

But to answer to a system that is developed to be more responsive to the fact that they are still children. They still need to learn to make decisions. They need our support. They need our guidance.

In the cases that I have had in the juvenile justice system, we need more intervention, we need more collaborative education. I have had a couple of cases and again only a very few, but in those cases there were three things that helped me to be what I think is very effective for my client.

One, I understood fully the criminal responsibility and consequences of my client's conduct. But secondly, I was able to work collaboratively with the schools, the social workers, and, in other cases, the justice system. But finally, I was able to advocate for my clients in the cases.

All three elements as a lawyer for juveniles are very, very important. The system itself I believe would benefit from, certainly, further intervention, diversionary programs, more community collaborative activity. On the Public Service and Trust Commission we discussed that issue also my Committee is not working on juveniles.

We have talked about the importance of being able to outreach. Once a child gets in to the justice system some things have actually happened that really in a way that if you just go down at straight road on sentencing, you're not going to have a chance to really take that person and allow them to achieve their potential.

You are going to affect not just their lives but the lives of their family in the future going forward.

Today is kind of in a lot of ways although it is a very happy day for me to be in front of you. It is a somber day for me.

One of my son's best friends from grammar school was released from prison today. This was a young man who was part of our family growing up with my son. In an out of our house, he was raised by a very good family.

But somewhere along the line he made some different decisions with his life. And those decisions have resulted in him being in prison and we have remained in contact with him over the years.

I am thrilled for him that he is coming out, I hope that he has learned his lesson. Certainly, in the communications that he has had in prison with my husband and I over the years. And the communications and I have had with his mother and sister. I hope so.

But I have always thought if I had turned back the clock to when this young man was 16 years old, when he started to make these decisions, what a different life.

My son is sitting here 25 years old today actively following his dreams. If this same young and wonderful young man made other decisions, if this life has gone on a different

path. I only hope and pray that he does not go back.

If we can just even capture some young children and not have that disaster happen to them, I would think that our justice system would have marched forward in a very positive way.

REP. WALKER: Thank you and congratulations on your nomination. And thank you so much for answering my questions, thank you.

SEN. MCDONALD: Representative Hewett.

REP. HEWETT: I think I got my voice back, guys. First of all I would like to congratulate you on your nomination. And I am very pleased to see that you are giving your opinion on different questions that are being asked by the Committee.

What I find very disturbing is the questions that are being asked today, if you get nominated you are going to do eight years, I think it is eight years before you have to come back before the Legislature, you are asked over the next eight years to give your opinions on everything in the world.

But can give us your opinions on the cases that we ask you about today. I find that very, very disturbing. But I do give you credit because you are giving your opinion.

One of the things that I want to ask you is knowing what the population is in a Connecticut

prison system today, 15 years ago I think it was 8000 people in the DOC, today's 19,700 and 72% of those are minorities.

Going to figure out how to frame my question here, in the judicial system it seems like 73% are non-minorities, and the rest are minorities.

There is a problem there, there has to be a problem, and I am not asking you to address because it is not your job to address it. But it is almost like they are saying to us that if there was a minority sitting on the bench that he had a case that he had rule on, that he would somehow rule on the case differently because he was a minority.

And I am not buying that, what is your feeling on that?

MARY SOMMER: I agree with you fully, Representative Hewett. Every judge must look at every individual in front him or her based on the charges or the case, the facts that bring them into the courtroom. And render a decision that is fair independent of everything else.

And I have seen people in Court increasingly more and more in part because of our system, more and more people are self representing because of other issues certainly beyond the scope of today.

But whatever ethnic or racial category you might put somebody in, whatever you are, should

have absolutely no effect. And I believe that that is the way our system is established if we all follow it.

Are there flaw? Absolutely. Do we need to change those? Yes.

REP. HEWETT: Sure, there are flaws in everything. But, you know, we go to, Legislators in here, we go to conferences every year, and some of us go together. And I'm pretty sure lawyers and judges go to conferences also, right?

MARY SOMMER: Right.

REP. HEWETT: And I'm pretty sure when you look at the room of those people when you have a big meeting you look at the racial makeup of those conferences. You have to, no one can sit and tell me that you cannot see it is not diverse. Something is wrong.

It is one-sided, it is lopsided. And in my opinion, if someone has made it through the judicial process and has been put on a list, and they are deemed qualified to be a judge in the State of Connecticut, and they keep being pushed over and pushed over, there is a problem there and it needs to be corrected.

But like I said before, I am not expecting you to correct, I love your answers. You are straightforward and honest with all your answers and I'd really like to. Thank you so much.

SEN. MCDONALD: Thank you. Are there any other questions? Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. And congratulations also. My Co-chairman here has said nothing but wonderful things about you and I think your commitment to a clear sense of justice is made even clearer by your comments here this afternoon.

I just wanted to invite you to address the question that I had asked earlier of the other nominees regarding the recently enacted rights for victims of crime in criminal cases before the court, the constitutional rights, and the statutory rights.

I mean can you give me a sense of how you feel those fit into our justice system? What would you think the potential remedies are for violations of those rights or any thoughts that you have on that topic?

MARY SOMMER: I think as has been pointed out, it is a substantive constitutional right. And that I stand ready to respect that and to enforce those rights to the fullest extent that is applicable under the law. And that includes whatever resources are available for that purpose.

Having said that, I am not aware of specific initiatives but it is important to represent the victims have a place in the courtroom as well. And for way too many years they were ignored.

And so anything that we can do to represent the rights of victims to give them some voice whatever is appropriate, and it varies so much from circumstance to circumstance, I can't say, but it certainly serves their rights and interests.

But it also makes for more acceptance and trust in the judicial system. And for that we all benefit.

REP. LAWLOR: And I'm sure that you understand that your first period of time as a judge assuming you are confirmed will probably be spent in the lower courts, the GA courts, the busy criminal courts.

And that at the end of the day it is your responsibility as a judge to make sure that those rights are respected because if you talk to victims, you'll find out that they often times complain that police don't explain the process, are not telling them what they need to know.

And the same with prosecutors and probation officers and on and on it goes. And so at the end of the day they will be looking to you to respect their rights. And there are a whole assortment of very specific rights especially related to notification.

It is my experience that a relatively small percentage of crime victims are interested in showing up in court and participating. But for

those who do, it is a very important thing for them to at least feel that as though people are listening to their concerns. An abiding by their requests to the extent that the law allows

And in a sense you are going to be the guardian of those rights as a judge and I hope you take them to heart, and it sounds like you do.

MARY SOMMER: I do.

REP. LAWLOR: Thank you. And congratulations.

SEN. MCDONALD: Representative O'Neill was next.

REP. O'NEILL: I have been fortunately was out of the room for a little bit of time when you are being asked to raise questions. And I am just wondering would you have any problem taking an assignment in Stamford?

MARY SOMMER: Well it is a pleasant walk from my House to the Stamford Courthouse.

REP. O'NEILL: It is good to hear that at least one person today is enthusiastic about serving in Stamford. And I also missed, I don't know, we have the sort of standard question, do you know of anything that is the appointing authority or we knew about it that it would represent an embarrassment to us or the appointing authority or the Legislature?

In other words, a catchall question, anything else we should have asked you?

MARY SOMMER: I do not.

REP. O'NEILL: Thank you.

SEN. MCDONALD: Representative Fox.

REP. FOX: Thank you, Mr. Chairman and the Ranking Member, Representative O'Neill. I actually did not plan on asking a question of you, because I know even though we do ask that of many nominees as to whether or not they would be willing to serve in Stamford. I know that you especially understand the need for [Gap in testimony. Changing from Tape 2A to 2B.]

--as well, I know Steven is off in Africa. But I guess they got a feel for what we go through here given that they were here all day.

I have known you for many years, I've known all the work you do both as a lawyer and involved in our community. One thing I don't know is if you become a judge, you will no longer be on these boards and commissions, and I don't know who is going to pick up the slack because you have done so much for our area.

And the question that I would like to ask you is you have been a leader in the judicial openness issue, you're been part of Judge Rogers's efforts try to make our courts more open both in the state and in our judicial District. And I would like you to comment on that little bit and talk about what you feel we

have done, and what you feel we can do going forward?

MARY SOMMER: I think that we are all a team working together, you know, we have our distinct roles. But the Judiciary legislative and executive, we all have I think, and I am asking to be appointed to benefit the people of the State of Connecticut and our own respective ways.

The more that we can do to have the judicial process be open and accessible to all citizens regardless of their walk and background, regardless of the type of case.

And to have them feel that in the absence of victims or the people who come before the system that they are listened to, that they are respected, that they are treated with dignity. I think that should be our goal.

REP. FOX: Thank you for your answer, and it is a real pleasure to have you here today. Congratulations on your nomination.

MARY SOMMER: Thank you.

SEN. MCDONALD: Are there any other questions? Representative Morris followed by Representative Gonzalez.

REP. MORRIS: Thank you, Mr. Chairman. And good afternoon and congratulations to you.

MARY SOMMER: Thank you.

REP. MORRIS: I'm going to ask you the same set of questions and with the same purpose, there is no reflection on you, quite frankly listening to your opening remarks, it is certainly refreshing, the opinions that you have for today.

By the way, I never got a chance to meet you while you were the assistant corporation counsel.

MARY SOMMER: That was in 1985, '84 and '85. And I loved it, absolutely loved the people of Norwalk, and I was happy to move on from Norwalk to Stamford.

REP. MORRIS: Certainly, your earlier comments about, you know, you're stimulating, growing interest in social justice issues is heartwarming. Simple three questions. What is your perception of the racial, your perception of the existence of racial disparities in the judicial system?

MARY SOMMER: There are significant racial disparities in the judicial system. There have been studies and reports done on this, I am certainly not an expert in the area, but, actually, in the course of my work on the Public Service and Trust Commission, I had looked at several different studies.

My area was criminal, it was the Delivery of Service Committee that looked at juror's experience and different other issues related to access.

But I certainly came across at and I've also been involved in a project through the Apple Seed Foundation looking to connect women in prison with their children. And so at least that has given me an education on some of these statistics, and they certainly are sobering, they are.

REP. MORRIS: Number two, you have any opinion on the lack of or increase of persons of color can benefit the judicial system?

MARY SOMMER: We all benefit by having people from every walk of life and more diverse people working with us, whether it is in the judicial system or anywhere else. And I would welcome increased diversity in the system.

REP. MORRIS: Thank you. Lastly, would you consider unjust or concerning that other judicial nominees of color would remain on the list and not be brought forward? And I ask you to answer that is if that were a factual case, and you are asked today to make a decision on what this would be a matter of equity and justice or not.

MARY SOMMER: As a nominee, I don't think I'm in a position to answer that and if they were qualified individuals, we are not made aware of the process.

I know that you go before the Judicial Selection Commission and provide background

information and so forth, and then beyond that I do not know what happens after that.

As the other candidates have, I received a letter and then there was a waiting time, but there was nothing that I knew about in the interim.

So certainly, I would hope that there would not be injustice, I think that we should have more candidates of color, and we should be actively and aggressively pursuing them and encouraging them to apply. But how the system works, I don't know.

REP. MORRIS: I thank you for that context and I am sensitive to the context of being a judicial nominee. It may be a little challenging. But to some degree the reason I'm asking the question is that I have a sense that it does bear on a judge's decision making skills and ability.

So taken out of the context of the position you are in today, so if anyone were to come back and say to you, gee, how could you answer that.

Well, he is asking me if I were a judge sitting on a bench, and I had to make a decision. And the only facts that the only facts that I had in front of me that day were simply that there are five or six persons of color. They were on a list that other persons are on and have to qualify for.

Other persons who were not of color were brought forward. None of these persons were ever brought forward. What would your decision be on that, is that an unjust situation?

MARY SOMMER: It would certainly be that that is a situation that needs to be addressed. For me to sit here today without further information and say it is unjust, I just don't know. But it is a very serious situation that I would hope would be addressed.

REP. MORRIS: Okay. Thank you.

SEN. MCDONALD: Other questions? I am sorry, Minnie Gonzalez. Representative Gonzalez, sorry.

REP. GONZALEZ: Thank you. Congratulations to you.

MARY SOMMER: Thank you very much.

REP. GONZALEZ: Can you tell me when did you apply for the judgeship? How long were you waiting?

MARY SOMMER: Actually, I applied several times. And I was turned down. And I do not know why I was turned down many years ago.

But this is always a commitment and a dream of mine, and so I went back and I practiced more law got more experience and added lots more layers of experience, and was actually lucky in that interim to be able to do many of the community service things that I have told you about today.

And then I came back to the Commission and I was approved in August 2004.

REP. GONZALEZ: You were approved in 2004.

MARY SOMMER: Yes. But I had been turned down about five years earlier. So in many ways this has been a long journey for me to.

REP. GONZALEZ. Right. But that was the last time that you applied was in 2004 and you were approved in 2004?

MARY SOMMER: I think the application was in 2004 and it was August of 2004 when I went before the Selection Commission.

REP. GONZALEZ: Okay, okay. Thank you.

SEN. MCDONALD: Are there other questions?
Representative Tong.

REP. TONG: Great to see you. Congratulations

MARY SOMMER: Thank you very much

REP. TONG: I want to quickly touch on, go back to when your answers about reaching out to the community and mentoring people. As Jerry alluded to is you have a great reputation in our community in Stamford for your leadership in the community and your services, the leader of the Bar Association and the Apple Seed Foundation Board.

But if you go on the bench in some way we lose you, and you go into that big building on Hoyt Street, and we hope that you just don't stay in there that you will come back out.

I would like to hear your thoughts on how you will continue to be involved and engaged in the community and provide that mentoring and provide that leadership and continue to reach out and make that change that you spoke of wanting to make earlier.

MARY SOMMER: I know that I will never forget my background, it is part of me, is who I am. And I will always want to share them in whatever way is appropriate whether it's education within the Bar system or within a big school system, in any area or arena where it is appropriate for me as a Superior Court Judge to be involved in encouraging greater civic involvement.

Because we all benefit and that is very important. I know that canon of ethics and encourage judges all to be involved in those areas of continuing education, civic engagement, and in whatever way we can do that. And I'm sure that there will be opportunities.

One of the benefits of doing what I have done for length of time is that it is not just something that I did for a year or two, but it has been my lifelong commitment, and so while my responsibilities as a judge will be first and foremost, and that there will be a lot of learning and a lot of work to that. In order

for me to feel satisfied I will have to reach back and give back in whatever ways are appropriate to the role.

REP. TONG: I can see that it's great to see you here in that it has been an honor to work with you in the community, to learn from you, and an honor to represent you and Jay and your family in the General Assembly. And I wish you the best of luck.

MARY SOMMER: Thank you.

SEN. MCDONALD: Are there any other questions from Members of the Committee? If not, I want to thank you for your time and it is certainly good to see that at least one former corporation counsel has done something with their legal career.

MARY SOMMER: I think that someone else has done quite a bit for us, thank you.

SEN. MCDONALD: You are referring to your husband, of course. Also a former corporation counsel. Thank you very much attorney Sommer.

MARY SOMMER: Thank you very much.

SEN. MCDONALD: The next nominee is Terence Zemetis of Meriden.

TERENCE ZEMETIS: Zemetis.

SEN. MCDONALD: Zemetis, I apologize. Please raise your right hand. Do you swear that the

testimony you are about to give visitors, the whole truth, and nothing but the truth, so help you God?

TERENCE ZEMETIS: Yes, I do.

SEN. MCDONALD: Please have a seat, welcome to the Judiciary Committee. We would be happy to have any opening statement that he would like to provide.

TERENCE ZEMETIS: Good afternoon, Chairman McDonald, Chairman Lawlor, Members of the Judiciary Committee.

I sincerely thank Governor Rell for honoring me with a nomination to become a Judge of the Connecticut Superior Court. I congratulate my fellow nominees for also receiving this high honor.

Second, let me introduce myself and briefly describe my background and relevant legal and community experience. I am Terry Zemetis born and raised in Meriden, the third of six children, the son of Anthony and Helen Zemetis.

My dad had a career both as a state trooper and as a teacher while my mother had a career with the state ending as a professor of English at CCSU.

I was educated in Meriden public schools, in 1974, cum laude graduate of the University of Connecticut, and in 1977 graduate of the Albany Law School.

I live in Meriden with my wife for 31 years, my high school sweetheart, Barbara, who after 30 years of teaching elementary school now teaches art to inner-city kids at the Meriden Boys and Girls Club.

Our two children, Jeff and Elisabeth, are college students, Sarah Lawrence College in Providence College respectively, and are both working in the creative arts.

My son works as a film editor and writer, and my daughter as the owner of a floral design studio. They are bright, kindhearted, and generous people making a serious contribution and we are proud of them.

I began practicing law in 1977 with Joseph Delaney. This serendipitous association lasted for 31 years to practice law for over 50 years and with a great trial lawyer, brilliant charismatic, handsome, eloquent, and honest. He was a generous mentor.

He shared his time, his talent, and his practice with me, and we've remained law partners and great friends. Since his retirement several years ago, we've remained in close contact.

He has been the greatest influence on my legal career, he modeled the excellence, discretion, artwork, integrity, and imagination as we work together to help our clients.

On the day I was sworn in, October 4, 1977, Joe held to select my first civil jury and watch me try that case the conclusion, launching me on a long and happy career as a courtroom lawyer.

I've since tried administrative law matters before state agencies, criminal cases, family relations cases, civil cases involving contractual and commercial disputes, professional negligence, premises liability, products liability, motor vehicle collisions, and workers' compensation claims.

I've tried cases and authentic accords, probate courts, housing courts, family courts, other divisions of our superior court, in civil rights and diversity cases in our Federal District courts.

I've tried a case in the Massachusetts trial court and a Vaccine Act case in United States Claims Court. I've briefed and argued appeals in the Connecticut Appellate Court and the Connecticut Supreme Court. Additionally, I've presented many cases to arbitration panels.

Over the course of my career, I've tried hundreds of cases to finality before a jury, a judge and/or an arbitration panel. In short, I spent much of the last 30 years involved in a wide variety of litigation.

I've enjoyed professional success. For the past 15 years or more my peers have honored me with the highest ratings for ethics and legal

ability in the Martindale-Hubbell legal directory.

I've been inducted into the American Board of Trial Advocates. This is a by invitation only national Society of trial lawyers honored for professional excellence, stability, and ethical behavior members of the bar and bench borderline inclusion in The Best Lawyers in America, Woodward/White, each year from 2002 through 2008.

I present lectures and teach at trial practice seminars for the American Arbitration Association, Connecticut Bar Association, Connecticut Trial Lawyers Association, Connecticut Defense Lawyers Association, Connecticut Probate Assembly, Connecticut Judicial Branch Continuing Education Section, New Haven County Bar Association, National Institute of Trial Ever cacique, and other groups.

I've lectured a legal ethics, trial evidence, procedure and practice, arbitration and mediation, insurance coverage matters, and taught many days of trial skills development training. I've been a guest lecturer at the UConn Law School and Quinnipiac Law School trial-practice classes.

Over the years, I've given hundreds of hours of my time preparing and presenting seminars and demonstrations for my brothers and sisters at the bar and bench, and all the efforts were pro bono.

I've served as a Special Master in pretrial settlement programs in the Federal District Court and the Connecticut Superior Court. I was there many times, without compensation, as Superior Court appointed arbitrator in the "Court Annexed Arbitration Program" in Meriden, Middleton, and New Britain.

During the past 10 plus years, I have arbitrated and/or mediated over 400 disputes. Lawyers have withdrawn cases from court, or prior to filing suit, presented the dispute to me excepting my decision is binding.

In these proceedings, the parties present a case just as they would in court, I decide questions of procedure and evidence, consider all the evidence and right of finding and award.

I've included one such decision in my written materials as explanatory of this type of work.

Many other lawyers ask me to mediate a difficult issue. I've mediated all sorts of cases, aviation disputes, commercial matters, insurance matters are many types, professional liability claims such as medical negligence claims against doctors or hospitals, municipal liability cases, and even cases involving federal civil rights claims.

This work is professionally rewarding and personally fulfilling. The work is very, interesting, and challenging. The

participation is completely voluntary, all counsel and parties must agree to my selection, and mediation success rate is greater than 90%. And I have many, many repeat customers.

Repeated selection by some of the best lawyers in Connecticut, well, that's an example of voting with your feet.

I've been active in my community, I have chaired the City of Meriden Aviation Commission during the past eight years during which working intensively with the FAA and ConnDot we've made major capital improvements at our local airport.

This work has been very interesting and links with my aviation interests, I hold a FAA private pilot's license with an instrument rating and I fly a private plane.

I'm a member of the Lawyer-Pilot Bar Association, the National Transportation Safety Board Bar Association, and a number of pilot associations.

I served 10 years on the Meriden Boys and Girls Club Board of Directors including two years as President of the board, and my wife and I remain active in the club today. The club serves the inner-city kids of Meriden.

I grew up attending the Boys Club where my dad, then a Lieutenant in the Connecticut State police ran the rifle range, with an iron hand,

and taught us about firearms safety and proficiency.

I've served on the Board of Directors of the Spanish Community of Wallingford for a number of years, and donated a great deal of time and energy to pro bono work for the Hispanic Committee members.

I've also given legal counsel and washed many pots and pans for a wonderful charity for sick and needy children in Wallingford, the Wallingford Wishing Well.

I'm honored to appear before this Committee, and I look forward to answering your questions about my legal experience, qualifications, and credentials to fill this very important position as Judge of the Superior Court.

I hope to continue a long tradition of excellence in the Connecticut Judicial Branch by acting with intelligence, patience, impartiality, and respect for all who participate in the judicial system. Thank you.

SEN. MCDONALD: Thank you for your testimony. Are there any questions? Representative Walker.

REP. WALKER: Good afternoon.

TERENCE ZEMETIS: Good afternoon.

REP. WALKER: Good evening, really.

TERENCE ZEMETIS: It is.

REP. WALKER: First of all, congratulations on your nomination, and thank you for spending time with us this afternoon.

First, you talk about your experiences with the Meriden Boys and Girls Club, and the opportunity to use firearms when you are young man.

You know, we have a lot of problems in our inner cities, and not only just inner cities, a lot of cities, where we have a lot of lost and stolen firearms that are being used in a variety of different crimes and things like that. Do you have any suggestions on how we can address that type of issue?

TERENCE ZEMETIS: I am sorry, Representative Walker, address the issue?

REP. WALKER: How do we address the number of crimes that are being committed with guns?

TERENCE ZEMETIS: Well, we have the gun court now. And I think that is a recent innovation, it is trying to address this idea of people committing crimes with guns. I think that is a start, I think it is only a year or two old.

REP. WALKER: We passed a bill last year that made people have to report their lost firearms immediately as soon as possible. Some people thought that was not enough, some people thought that was a good start. Do you have any

other suggestions of other ways to address that?

TERENCE ZEMETIS: I don't but I agree with you that it is a good start. Because you are absolutely right, people who find their guns gone, those guns are often used in a crime shortly thereafter.

REP. WALKER: You are also with the Boys and Girls Club, what types of programs does the Boys and Girls Club do with the community kids there?

TERENCE ZEMETIS: Well, Meriden Boys and Girls Club is now about 2000 members strong and my wife teaches there nearly every afternoon, and I get to do some things there, looking to expand that. But they have, of course, lots of sports programs.

But the ones I am most proud of the things that I did when I was on the board. We did the Children's Power Hour, the Children's Power Hour is an after school program, kids will come there and we have a learning center.

And we have gotten the Cox Cable people to give us lots of computers, so we are wired, and we have a very active after school homework program for kids, and it has been wonderful.

We have an elementary school that is about three blocks away, we get rave reports that a program is very successful for the kids.

REP. WALKER: With raising the age going into effect in 2010 addressing a population of 16 and 17 year olds, and trying to get reconnected to the communities, do you have any suggestions of different ways that we can do that?

TERENCE ZEMETIS: First, let me try and answer slightly different than you asked. I think it is very important that we are doing us. It is very important because kids should be allowed to stub their toe without incurring a criminal record.

And by raising the age to 17 we are going to include more kids who can make a small mistake learn the right way to get along, and avoid having a criminal record which really feeds into something that we have been talking about, that you have been talking about all day about people incurring a lengthy record and then finding themselves incarcerated really for minor-league offenses that pile up.

So I am a big believer that if we can make a small mistake early and catch them, that is a great thing. And without a record to keep, help us on the other side of this equation where people are incarcerated, really, because they have now managed to run up a rap sheet that is unpleasant.

REP. WALKER: We have also been talking about the fact that there are so few minorities in judge positions. And we are trying to figure out what do we need to do to try and increase that number, obviously, that there is a deficiency

somewhere. And do you have any suggestions on how we can address that?

TERENCE ZEMETIS: Well, if we can recruit more applicants, it will be certainly good. I know a number of people who I think would be wonderful candidates for that. There are lots of reasons why people don't apply.

The life that one lives as a Superior Court Judge is somewhat withdrawn from the society of other lawyers at least with whom you have been friendly for years.

So it is not something that one enters into without giving a fair consideration. And economically, a number of people that I know think it is something that they cannot do at that stage in their lives, their kids are not grown yet, there is college they're looking at, they've got to make money to pay those bills.

I think there are a number of factors discouraging people who you and I might otherwise think would be qualified. But some of the questions you are asking about if there were a pool of people and people were in it, that is not a thing that I have any control over.

So I can tell you this, in answer to Representative Gonzalez's question, I have been on the list for five years, you and I might think given this kind of background that I was qualified. And you might wonder why I was

overlooked for five years, is it because of my Polish heritage? You know?

There are other qualified people that were selected by in that case by the Governor. And I think it is a wonderful idea to get more diversity on the bench, and more diversity as Mary Sommers was saying would be a wonderful addition.

REP. WALKER: I did do a little background on you and it said that you, you even talked about it, you worked on some seminar practice skills for new attorneys. And you presented on litigation in federal courts.

My question is looking at your background, you don't have that much experience in federal courts according to your thing, you only have like 95%. So how did your present that?

TERENCE ZEMETIS: Well, I think what they were asking me to do at that point was to contrast the experience they had in federal court jury selection with state court jury selection. And I have done hundreds of state court jury selections and not nearly as many on the federal side.

But what they asked him to do is contrast, and to try and work a jury selection method for the state, for our system that would incorporate some of both and be an economy.

And, actually, we have done that, and I presented this to the Connecticut Judicial

Department a couple of years ago and they adopted a portion of it. It eliminates part of the lengthy [inaudible].

REP. WALKER: Okay. So you have had extensive experience in jury trials?

TERENCE ZEMETIS: I have.

REP. WALKER: That's good that is part of what is going to happen in the next two years. Thank you.

TERENCE ZEMETIS: You are very welcome.

SEN. MCDONALD: Other questions? I'm sorry, Senator Meyer was next followed by Representative Dillon.

SEN. MEYER: Thank you, Mr. Chairman. Mr. Zemetis, I think from my four years on this Committee you're extraordinarily as well prepared for the bench as any nominee in my experience. I have seen very broad, I think your mediation experience is going to be tremendous help to you on the bench.

We members of this Committee have been given a negative recommendation by a man named William Ackerman.

TERENCE ZEMETIS: I have, may I give you the context?

SEN. MEYER: Let me see if I can lead you through it and then you add to it.

William Ackerman appears to have been an attorney who according to the probate court papers of the Wallingford Probate Court, and I'm looking at both an affidavit in November 1998, and an order of a court in December 1998, he appears to have misappropriated \$64,344 from an estate.

And that evidence comes out in the course of the affidavits of the co-guardians of the estate, and then it comes out in an order of the court.

And the Court states that attorney William Ackerman actually admitted that he retained full possession and control of these monies. And that the \$64,344 has been improperly withheld, I am quoting, and/or misappropriated by him. And the court goes on to order his payment of that sum to the co-guardians of the estate.

And I gather that you were counsel for the co-guardians, for the estate?

TERENCE ZEMETIS: Eventually, yes.

SEN. MEYER: Eventually. And what Mr. Ackerman seeks to do is ask us to turn down your confirmation, reject your confirmation on the ground that you improperly, I guess you would say prosecuted him, brought charges against him.

Am I correct in understanding that indeed this order that we have here by the Probate Court directing him to pay this money, which he had misappropriated was made by the Probate Court?

TERENCE ZEMETIS: Oh, yes.

SEN. MEYER: And that he appears to have had criminal proceedings against him as well for some kind of theft and that he appears to have been disbarred as well?

TERENCE ZEMETIS: Yes, Sir. He was--

SEN. MEYER: All those things happened.

TERENCE ZEMETIS: He was convicted of larceny in the first degree of embezzlement of this child's money. He was sentenced, he appealed, the trial court was affirmed, he appealed, denied. He filed a Habeas Writ for ineffective assistance, denied.

He is now blaming his misconduct as of this morning on me. So I am a little surprised to see it but the context of it is this, in 1998 I am practicing law in Wallingford and I get a call from the Probate Judge who says can you see some people for me? I am having a problem.

And he sends this family over to me that has a then 18-year-old child who has in her arms a very young child, a very young baby, and a mother and father who are in their 40s or so.

They come and tell me the story that when their daughter Elizabeth was 14 he was hit by a car, she was represented by this particular lawyer, and she is now 18, and they can't get the money from him.

As you know if the settlement is greater than \$10,000, it has to receive Probate Court approval. That was done, the parents were appointed guardians. They left the money with a lawyer, five years later they are trying to get the money away from the lawyer. And the lawyer will not respond.

And the Probate Judge cannot get him to respond so would you help me some. And I go and I tried to help him. Eventually, Mr. Ackerman shows up in the Wallington Probate Court and tearfully confesses that he took the money and he spent it all.

And then he wrote a letter to the Grievance Committee at my suggestion, self confessing, or self reporting you might say that he had done this.

Somewhere along the line, he decided that he didn't. And he began to take a different tack, initially offered to repay everything and take a mortgage and so forth, but all that disappeared. And the parents of this child went to see the State's Attorney and they indicted him and he was eventually convicted.

I was subpoenaed by the state's attorneys to testify, I was one of many witnesses, the

Probate Judge, myself, the parents, and other people. And he was convicted.

So today he is a convicted felon who is disbarred and he's blaming me for the audacity to tell up Probate Judge, and the Superior Court jury that this is what he did. It is what he did. I am not saying that he is a terrible person, I'm saying what he did was reprehensible. And he was punished for it.

SEN. MEYER: Okay. Based on the documents that are in front of us particularly the affidavit of the Probate Court, the order of the Probate Court, your statement which goes on uncontroverted here, I feel that there is no credibility to--

TERENCE ZEMETIS: I would ask you to read 81 Conn App 503. It is the Connecticut State Appellate Court decision of his appeal. It is 14 pages long but if you read the first of several pages all of the facts, because I read it this afternoon during our recess, they decided for you. Exactly, there was a benefit to this recess.

Actually, I called on Judge Blawie, who was at that time John Blawie, the prosecutor. And John has said he was willing to come up and talk to about this, that if necessary, that everything written in the Appellate Court transcript is accurate, and that my conduct was unimpeachable.

SEN. MEYER: Okay.

TERENCE ZEMETIS: I want you to know that I represented this child in this matter without fee through the probate matter, through the, there was a separate action for a collection of a bond, there was a \$30,000 bond for, having read it all comes back to me now, for the guardians.

So I was able to collect that money for the child. We then represented her in a civil suit when a criminal matter became a factor, one of my associates handled it. So we did all that pro bono because as members of the Bar you really hate to see this kind of behavior, and there it is.

SEN. MEYER: Thank you for that. Mr. Chairman, can I ask just one other question? Mr. Zemetis, you may have read that the General Assembly has been involved in a debate recently last week and the passage of a law concerning criminal sentences.

And we looked at persistent-felony offenders and decided after considerable debate that we would permit that serious-felony offenders after three such offenses, they could be sentenced by a judge up to life imprisonment for that.

I wonder, putting your hat on, assuming you are confirmed as a judge, I wonder what your philosophy is toward that discretion particularly in light of the fact that there was an alternative viewpoint presented to us

that actually the General Assembly did not accept.

But it was well articulated to us, and that was that the bench should not be given any discretion in this, but judges should be mandated after three felonies, serious felony offenses to send an offender up for life imprisonment.

So you have the question of discretion on the one hand versus mandate on the other, you have any philosophy with regard to that you could share with us?

TERENCE ZEMETIS: Well--

SEN. MEYER: And if you don't, that is fine, but I just wanted to ask if you did.

TERENCE ZEMETIS: I think it has been well said here, that if you picked your judges well, that you would have confidence that they would exercise their discretion thoughtfully. So I think it is a good idea to have the discretion in the trial court judge.

You have them back here every eight years, if you find something in their behaviors that you thought was inappropriate, you can ask them for it at that time. So I think you did the right thing.

SEN. MCDONALD: Representative Dillon.

REP. DILLON: Thank you, and congratulations on your nomination by the Governor. I guess I was looking just at the cases that you pick, as you are pretty heavy on it seems like personal injury. Would that be an accurate way to characterize your practice?

TERENCE ZEMETIS: Yes, it was an interesting transformation. I started certainly with a more diverse practice, but as the years go on you will find that many of us end up in a boutique practice simply because of the economics of the practice.

You get forced into specialization, so you are right. I would say that the first 10 years was far more diverse with lots of lots of criminal, family, motor vehicle, so forth. And as time went on it became more focused.

REP. DILLON: Thank you. And I am certainly not discounting this very important area of the law but, I guess, going to a certain extent, although I'm not totally, the Senator from Madison said, Senator Meyer, Guilford, I'm so sorry. I represent the Westside of New Haven.

There just seems to be so much dispute about our criminal justice system, you know, that that our prisons are overcrowded, disproportionately young people of color, people don't feel safer, we keep responding by a number of things that don't seem to necessarily work.

It is just a problem, I hear the problem from all sides where I represent. That people are concerned that, when people leave prison that there is nothing to help them reintegrate at all. And that they may be marginalized forever, and on the other hand, you know, there is tremendous anxiety.

We have had an increase in violence in the streets in the town that I represent. And also we have had some very high-profile murders. So that it is very difficult to get your hands around it in my view.

What do you think that you bring to the bench in terms of your own experience, and I would never ask philosophically, because I really don't know what that means, I really don't, I think pragmatically to a certain extent.

Given the practice that you have had, what background do you bring that you think would be helpful in dealing with the tremendous challenges that we are looking at on the criminal side?

TERENCE ZEMETIS: Well, I grew up in modest circumstances. I had a number of friends who found their way into difficulties. I have had a number of family members who have found their way into difficulties in the criminal, and I have had a practice over the last 30 plus years now right have been in and out of the criminal courts to see people.

I think that my background is such that I have seen this on a personal level, both in family and friends and in clients, I am empathetic and I am compassionate to their situation.

I think Mr. Lawlor's questions about the victim's rights as counterbalance to this concern that we have about the rights of the defendants.

And so it is a difficult balance to achieve and I can hear you struggling with it, and I can see it in the newspapers that you are struggling with. And I think everybody should be struggling with, and if we are not, we are not doing our job.

So what I can tell you is that I will bring my intellect, my energy, and my compassion and try to achieve it on one case at a time that a judge listens to. And I will cheer you on to handle the larger spectrum.

SEN. MCDONALD: Representative Green.

REP. GREEN: Thank you, Mr. Chairman. You made a statement that you thought that the Committee here, maybe the General Assembly, we pick judges well. What would you think are the three qualifications in choosing, considering, and supporting the nomination of a judge?

TERENCE ZEMETIS: In the halls of the United States Supreme Court they list these qualifications: patience, impartiality, wisdom, sobriety, I

don't they meant it in quite the sense that we think of it today. But seriousness.

I would encourage you to also think of compassion, empathy, humility. Those of the qualities I think you should look for.

REP. GREEN: And if you were out with your friends on an evening, how would you describe your temperament, your style, your demeanor? Give me a picture of who you are outside of this arena.

TERENCE ZEMETIS: Oh, I think I am a pretty even tempered fellow of modest intellect and modest ambition.

REP. GREEN: I think all of the nominees for Superior Court have an extensive background in civil cases. And I have always been concerned on the criminal side the whole plea-bargaining process. Would you say there is a similar type of process that you use on the civil side similar to the plea bargaining process on the criminal side? What is that, and what you think of all that?

TERENCE ZEMETIS: It is very similar and I am very disturbed by it. I am very disturbed by it because I am a huge believer in the value of the jury system.

A jury is community participation in the government, and I have often argued to them that it is the smallest democracy you will ever

participate in. You will be one in twelve, you will be one in six on the civil side.

I don't care how small your community is you will never get this again. And I find that it invests them in the community, it invests them in the laws, in the sense that they are part of this, more than voting, they are there for three or four or five days engaged in a problem that is not theirs. It is someone else's. They are setting the standards.

It is very, very important that we preserve it, and the more pre-trials we have, the more we make courtrooms inaccessible by making them too expensive, the less service that we are doing.

REP. GREEN: In the criminal side, I've heard that the courts really need the plea bargaining process otherwise they cannot function, if everyone went to a jury trial. How often, and again, whatever that process is in civil court, do you feel, would you incur that you have more jury cases in civil court?

TERENCE ZEMETIS: Oh, I would love to see more jury cases in civil court. And I am sure that the statistical information would tell you they are dropping off a cliff in terms of frequency. I can see it in my own practice. From say 15 to 17 verdicts a year to 2 or 3.

It is too expensive, the lawyer's fees, the expert's fees, the time expended, and there is a tremendous momentum to discourage us from doing that.

There are procedural hurdles, there are papers to file, far, far more than I could describe to you in a minute or two. It is a very complicated process today that did not exist 30 years ago.

REP. GREEN: And your overall conclusion, would you still consider that a fair process regardless of whether they go to a jury or not jury? And on the civil side, the process is either mediate, negotiate, or done in a way that you think provides for fairness?

TERENCE ZEMETIS: Well, it provides for fairness but it doesn't provide the community involvement and I think is very important. The judicial system needs to be the glue that holds society together, and the only place that people really participate in it is in the jury system.

I think we have been talking about it here in respect and so forth, I don't think if you are in the small claims court or in the Connecticut Supreme Court. This is the people's court, the sovereignty is a people, and if they don't feel that the system is responsive to them, then we are all done.

REP. GREEN: Have you heard of this concept of a Sentencing Commission that we have been discussion, any opinions--

TERENCE ZEMETIS: I have read the summary of it and it is shocking. The disparity is shocking. And I don't know how you fix that, I read the

recommendations that they make but I can tell you that I appear in GA courts and I can tell you that it is true. Because I can stand there and look back into the crowd that is assembled behind me and see the demographics.

It is a very important issue, we've got to figure out how to solve it from the police system right on through.

Overcharging has been mentioned by someone here, the multiple charges against a particular defendant, is that consistent, are you doing that to the people of the Caucasian race, as much as you are doing it got to the Hispanic race, the black race? What are we doing?

If we are not doing that consistently, then why not? You've read the reports, whether the bail is the same, whether that the charges are the same, whether of the pretrial resolutions are the same.

Representative Walker talks about it here, what is the point in getting a record on a youngster that then is going to plague that person until they go to the next case? It is not a solution to run up for five crimes that I can have you plea-bargain out, but I'm not going to sentence you on the, it's okay.

REP. GREEN: Do you think the judges, that the fraternity of judges [Gap in Testimony. Changing from Tape 2B to 3A.]

--in the justice system, or is that something that you think is left for another body?

TERENCE ZEMETIS: I don't have to say that, you read the judicial report, certainly, there is a disparity in it. You have to be a blind man to see. Absolutely, the question is just how to fix it.

You have read the report as well as I have, there is statistical evidence that establishes it, there's no question about it.

REP. GREEN: All right, thank you.

SEN. MCDONALD: Represented Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. And congratulations, Attorney Zemetis. You heard that I asked some questions earlier about the recently enacted statutory and constitutional rights for victims of crime.

And rather than repeat the whole question, I am sure you heard, what thoughts do you have on the rights the crime victims appear to actually have?

TERENCE ZEMETIS: I have a couple thoughts. I have in last six months had the occasion to appear on behalf of the victim of a crime on a couple of occasions in the Meriden court.

And I can report you happily that the prosecutors, the victim's advocate, and the

trial judge were very responsive to my client's interest.

I don't know if the victims who are underrepresented are getting the same kind play that my people did but the courts are very, very responsive to the rights of the victims.

And I know you're trying to balance the rights of the victims and the rights of the defendants. It is obvious.

REP. LAWLOR: How about that prosecutor Ann Lawlor? How is she?

TERENCE ZEMETIS: Can I defer?

REP. LAWLOR: And you mentioned in your earlier testimony that one of the roles you played is, I think you said that you are Chair of the Airport Commission? What does that involve exactly?

TERENCE ZEMETIS: The City of Meredith owns an airport, municipal airport, small airport. For the last eight or ten years I have been the Chairman of the Commission. And the Commission is responsible for reporting back to the City for improvements, maintenance, and operation of airport.

And so we are meeting their frequently, monthly meetings but because we are pilots we are there more frequently. And what we have done there in the last ten years is that we have really

managed to get a rehabilitation of the airport through the FAA DOT fund.

We've got a new runway, we got new taxiways, we've got a hanger project that is being built now for a couple of million dollars. We have done a lot of capital improvements on the airport. So there's lots and lots of time.

REP. LAWLOR: And so, I represent a community between New Haven Airport, which is to a large extent--

TERENCE ZEMETIS: I've been there many a time.
Thank you for the hospitality

REP. LAWLOR: Well, it's actually kind of contentious, you know, because most of it is in East Haven, and the City of New Haven essentially pays a large part of the operating costs.

And there is a lot of pushing and shoving about over-extending the runway, and that type of thing. And people in my community have a lot of concerns about it, many of which are environmental because of the wetlands that surround the airport.

Many of which involve safety because of the homes at both ends of the runway. In addition to that, there is a lot of concern about the traffic on the narrow roadways that lead in and out of area because there is really no highway to get you to the terminal.

But I only bring this up because of the interaction between the Airport Authority and the neighbors where I am from can get kind of contentious, but I am just wondering if you have occasion to preside over meetings with the neighbors when they are upset? And how to those go?

TERENCE ZEMETIS: I do. Well, rocky at first, but we have found a mutual respect, for instance, the hanger project which is just underway now took about four years for me to go through the various zoning/planning commissions of the Town of Wallingford.

REP. LAWLOR: It is the Meriden Airport but a lot of it is in--

TERENCE ZEMETIS: Same issue that you have. Most of it is actually located in the Town of Wallingford. And I work very ,very closely with the town officials, with the planner, with the Council, the water department to assure that every step we took was in conformity with best practices.

And as soon as we established that I am practicing law in that community and I am drinking the same water, but I do want this to be as clean as possible, and then they recognized that I was trying to do the same thing that they were. We really got along famously. But it took a little bit.

REP. LAWLOR: I guess the main concern that I would have, one focus that we have and we are asked

by members of the Bar to focus on this, and obviously citizens at large feel the same way, it is the issue of judicial temperament, right.

I think the basic qualifications to be a judge are dealt with at the Judicial Selection Commission so when the nominations come to us, we assume that everyone is a competent attorney, and have enough practice to do the job if appointed.

And then we are asked to focus also on, to identify people who have this problem that some people refer to as robitis. Have you heard that expression before?

Anyway, know there is a phenomenon that sometimes people, it happens to Legislators too, and mayors and governors and everything, so it is not unique to judges.

But sometimes there is a phenomenon where people are vested with this type of authority that people abuse it, put it that way.

And I guess since you have been in this role as Chair of the Airport Commission, and I assume you have provided over hearings where there is a lot of tension, there are very strong opinions.

People tend to lose their temper it really falls upon you to keep things under control and were appropriate to facilitate negotiations and that type of thing.

What is in your philosophy in dealing with those types of hearings where the stakes are very high and the tensions are very high, how do you deal with those?

TERENCE ZEMETIS: Well, I'd like to think that I do with it the way that you do here is that you let people talk, you try to keep them focused on the issues, you try let them understand that you understand their point whether you agree with it or not, but you understand their point.

And there is a psychological phenomenon that if you, to understand, then to be understood. So if the speaker here is that I understand her or him, they are then willing to listen to me.

So I am patient, I try to listen in when I do get their point, I will restate it for them as succinctly as I can, they will nod any, and we move along.

We have had some heated exchanges with people who are really revved up about things and they should be, it is the quality of their homes, it is the quality of their lives. And so you try to be responsive to that, and you try to explain that you do understand their concerns. And you will try to address them.

And for instance, people at the ends of the runways, we have addressed that with noise abatement programs, we've done different things with the pilots with signage, with their takeoff patterns, and so forth to try to address this.

So, no, it is not just listening and giving some eye wash, and saying I understand you, get lost. I understand your concern, let me see if I can find a solution to it. And we have.

REP. LAWLOR: Are you currently the Chair of the Commission?

TERENCE ZEMETIS: Right.

REP. LAWLOR: And I think you understand there is a rule or practice that that is not acceptable.

TERENCE ZEMETIS: Yes. We are planning succession already.

REP. LAWLOR: Okay. I guess the reason I asked these questions is, and this certainly will apply to all the nominees, but I only brought it up because you have this sort of unique role to preside over these things, it is such a very, very important thing, the judicial temperament seems to get a lot of people in trouble.

We find that whenever there is a rocky road on a reconfirmation that it usually comes back to that issue.

I for one believe that even if I completely disagreed with the decision you rendered as a judge, that that is your prerogative. But when we are looking at ethics and temperament, those really are the two issues.

And again, this is to all the nominees tonight, that we would hope that you wouldn't embarrass the nominating authority or the Legislature by proving us wrong when we trust you with the appropriate judicial temperament in the future. So congratulations again.

TERENCE ZEMETIS: Thank you very much.

SEN. MCDONALD: Are there other questions? Senator Coleman.

SEN. COLEMAN: Just a very quick question, congratulations on your nomination. Curious, and I wonder if you would not mind sharing with me the length of time that you remain on the Judicial Selection Commission approved list from the time that you were approved.

TERENCE ZEMETIS: Because Mary was asked that question and I was paging. October 2003.

SEN. COLEMAN: 2003. Okay. Thank You.

TERENCE ZEMETIS: Thank you.

SEN. COLEMAN: Thank you, Mr. Chairman.

SEN. MCDONALD: Thank you, Senator Coleman. Representative Morris.

SEN. MORRIS: Thank you, Mr. Chairman. And good evening.

TERENCE ZEMETIS: Good evening, Sir.

SEN. MORRIS: And congratulations on your nomination.

TERENCE ZEMETIS: Thank you very much.

SEN. MORRIS: Now that you've made my questioning shorter, you already answered the first two questions. You did very well. And your opening statements were impressive as well, the work you have done with mediation.

And more specifically, probably, you can answer my question to everyone else, particularly, because of the cases involving civil rights claims.

I imagine you have had to make some decisions based upon those claims.

TERENCE ZEMETIS: Yes, I have.

SEN. MORRIS: And the last question that I asked everyone really that's what it is about. I will give you the hypothetical scenario that you as a judge would have to make a decision based upon, and the facts are that in the judicial nomination process, there are a number of persons, let's just say, four persons of color with a similar process as you.

I'm going to give you some real good numbers, 50 people, who are not of color, were nominated and during a period of four or five years, 10 years or whatever it is, none of the persons of color were ever brought forth.

So from a civil rights standpoint would you consider that a matter of inequity or not?

TERENCE ZEMETIS: Well, if you and I could stipulate as to what the criteria for selection would be, because, you know in this process, I know it is a hypothetical and so forth, but as Mary Sommer was saying, we submit our paperwork and it goes into never, never land. And one day someone calls you, I don't know what criteria they use to select my file over your file over someone else's file.

If you and I knew what the criteria was, then we might be able to divine that there was some insidious process at work here. Just a statistical is more difficult for me because I do not know what the criteria are.

To select the 4 out of the 54, I wish I knew, but I don't. But statistically, you and I would say that the longer that persisted and more at begged you to say that something is not right.

REP. MORRIS: Yes. I guess there is some of the testimony that you heard today that would bear upon that kind of decision. I understand others have applied and gone through this process, and some at some point were told that they were rejected at some point, and they had to reapply. In fact, I don't know if we ever ask you that question. Is this your first time applying?

TERENCE ZEMETIS: It was.

REP. MORRIS: Okay. However, you heard earlier today that someone applied and they were rejected. And maybe I am assuming wrongfully that what kind of makes me think that part of the process may be such that persons don't qualify that they do let them know.

So if you don't hear from someone that would make me assume that he must have qualified. Does that probably sound like a pretty fair assumption?

TERENCE ZEMETIS: I think so. I mean what you get is really a one line letter that says your name has been forwarded to the Governor for consideration.

REP. MORRIS: Right. So that being the case then, then the facts would be these are individuals who have qualified just as well as others have actually qualified.

TERENCE ZEMETIS: Right.

REP. MORRIS: The only difference is that their names have not been brought forward.

TERENCE ZEMETIS: Right.

REP. MORRIS: I would ask without an answer just based upon that evidence and those facts, it is all the facts that you have.

TERENCE ZEMETIS: That is a hard answer question because, you know, I sat on the list for five

years and wondered what was it about me that didn't get me selected? And yet there were many people who were selected ahead of me and they seem to be very qualified people. So I can hardly complain if they're putting other qualified or more qualified people than me.

REP. MORRIS: And thank you very much for your answers, and even your earlier opinions that you gave in this regard.

TERENCE ZEMETIS: You are very welcome, Sir.

SEN. MCDONALD: Thank you, Representative Morris. Are there any further questions? If not, thank you very much for your time.

TERENCE ZEMETIS: Thank you, Sir.

SEN. MCDONALD: Are there any members of the public who would like to testify on any of the nominees before the Judiciary Committee? If not, the public hearing will be closed.

[Whereupon, the hearing was adjourned.]